LAWS

OF THE

TERITORY OF MONTANA,

PASSED AT THE

SECOND SESSION OF THE LEGISLATURE, 1866.

Beginning March 5, 1866, and Ending April 14, 1866.

VIRGINIA CITY, MONTANA TERRITORY:
PUBLISHED AT THE DEMOCRATIC OFFICE—JNO. P. BRUCE, PROPRIETOR.
1866.

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PUBLISHED BY AUTHORITY OF THE SECRETARY.

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LAWS OF THE TERRITORY OF MONTANA,

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SECOND SESSION OF THE LEGISLATURE. 1866.

CHAPTER 1.

AN ACT to repeal and act, entitled an act, to provide Increased Compensation to Officers in this Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION, 1 That the act, entitled an act, to provide increased Compensation to officers in this Territory, passed and made a law by the first Legislature of Montana Territory be, and the same is hereby repealed.

SEC. 2. *Be it further enacted*, That all acts and parts of acts, passed at the last session of the Legislative assembly of the Territory of Montana, allowing additional, or any compensation to the Governor, Judges of Supreme or District Courts, Members of the Legislative assembly, or any Officers of the Council or House of Represntatives of this Territory, be, and the same is hereby repealed.

SEC. 3. This act to take effect and be in force from and after its passage.

A. E. MAYHEW,
Speaker of the House of Representatives.
ANSON S. POTTER,
President of the Council.

March 22nd, 1866.

Executive Office, Virginia City, Montana Territory.
March 26th, 1866.

Approved,

THOMAS FRANCIS MEAGHER,
Acting Governor Montana Territory.

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CHAPTER II.

AN ACT defining the duties of County Treasurers, and the payment of County Warrants.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

SECTION I. That from and after the passage of this act, all taxes and licenses due this Territory, or any County thereof, shall be paid in money at the time the same may become due; *Provided*, that any person or persons who may have rendered services to the Territory, or any County thereof, and who hold warrants, issued therefor, in his or their name or names, shall have the privilege of paying his or their taxes or licences with such warrants, in the proportion of such due the proper County or Territory

SEC. 2. It shall be the duty of the several County Treasurers, within the Territory, to keep a book, in which they shall enter all County warrants, of their proper County, presented for payment, in the order in which they are presented, giving the name of the owner, the number and amount of the warrants; and they shall be paid in the order in which they are presented.

SEC. 3. The County Treasurers of the several Counties of this Territory, shall, on the first Monday of every month, post upon the door of their offices, a list of the warrants that they have funds in their hands to redeem or pay, the payment of which has not been demanded during the month last past, and from the date of such notice, the interest on all warrants thus posted, shall cease. And it shall be the duty of such Treasurer, to file, under oath, a true copy of said notice, in the office of Clerk of the County Court of his County, which Clerk shall file and preserve the same in his office, which notice, or a duly authenticated copy thereof, shall be *prima facie* evidence of such posting.

SEC. 4. The Treasurers of the several Counties of this Territory, shall pay over to the Territorial Treasurer, every three months, all moneys that they have in their hands, belonging to the Territory; *Provided*, the amount of money in the hands of the County Treasurer exceed five hundred dollars, but if less than five hundred, the Country Treasurer shall immediately report to the Territorial treasurer the amount thereof, due the Territory; which amount shall be subject to the order of the Territorial Treasurer. But if the Territorial Treasurer shall fail to draw upon the County Treasurer by draft, check, or otherwise for said amount, so reported due the Territory by the County Treasurer, at the expiration of six months from the date of said notice, then the County Treasurer shall pay over to the Territorial Treasurer forthwith all moneys in his hands due the Territory.

SEC. 5. The County treasurer, at the time of paying over any money to the Territorial treasurer, shall take from him a duplicate receipt therefor, one of which he shall deposit with the territorial Auditor, and retain the other as his voucher on settlement.

SEC. 6. The county treasurer shall receive the following fees, beginning with every fiscal year:—twelve and a one-half per cent on the first five thousand dollars. For all sums between five and ten thousand dollars, eight per cent. For all sums over ten thousand dollars, three per cent. Four per cent for receiving and paying out all money other than school and poor taxes. For registering every county warrant, twenty-five cents, to be paid by the party presenting the same. For every license issued, one dollar, to be paid by the party applying for the same. For every mile traveled going and returning in making settlement with the territorial Auditor and Treasurer, twenty-five cents. For levying on and selling

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property for taxes, the same fees as are allowed the sheriff, to be paid by the delinquent.

SEC. 7 Section thirty-five and so much of section thirty-six, of the Revenue act, as authorizes county treasurers io issue ballance certificates on territorial or county warrants, and all acts and parts of acts, conflicting with the provisions of this act, are hereby repealed.

SEC. 8. This act shall take effect and be in force from and after its passage and approval by the Governor.

Approved, March 14th, 1866.

CHAPTER III.

AN ACT regulating Descents and Distributions.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

SECTION 1. When any person having title to any real estate of inheritance, or personal estate, undisposed of or otherwise limited by marriage settlement, shall die intestate as to such estate, it shall descend, and be distributed in parcenary, to his kindred, male and female, subject to the payment of his debts, and the widow's dower, in the following course:

First, to his children or their decendants, in equal parts.

Second, if there be no children or their decendants, then to his father, mother, brothers and sisters, and their decendants, in equal parts.

Third, if there be no children, or their descendants, father, mother, brother or sister, nor their decendants, then to the husband or wife; if there be no husband or wife, then to the grandfather, grandmother, uncles and aunts, and their decendants, in equal parts.

Fourth, if there be no children or their descendants, father, mother, brother, sister, or their decendants, husband or wife, grandfather, grandmother, uncle, aunt, or their decendants, then to their great-grandfather, grand-grandmother, and their descendants in equal parts; and so on, in other cases, without end, passing to the nearest lineal ancestors, and their children, and their descendants, in equal parts.

SEC. 2. All posthumous children, or descendants of the intestate, shall inherit, in like manner, as if born in the lifetime of the intestate; but no right of inheritance shall accrue to any person other than the children or descendants of the intestate, unless they are in being, and capable in law to take, as heirs, at the time of the intestate's death.

SEC. 3. If there be no children or their descendants, father, mother, brother nor sister, nor their descendants, husband or wife, nor any maternal nor maternal kindred, capable of inheriting it (the whole) shall go to her or his (the) kindred, (of the wife or husband of the intestate), in the like course as if such wife or husband, had survived the intestate, died entitled to the estate.

SEC. 4. When the inheritance is directed to pass to the ascending and collateral kindred of the intestate, if part of such collaterals be of the whole blood of the intestate, and the other part of the half blood only, those of the half-blood shall inherit only half as much as those of the whole blood; but if all such collaterals be of the half-bloods, they shall have whole portions, only giving to the ascendants double portions.

SEC. 5. When several lineal descendants, all of equal degrees of consanguinity to the intestate, or his father, mother, brothers, and sisters, or his grandfather, grandmother, uncle and aunts, or any ancestor living, and their children come into partition, they shall take *per capita*, that is

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by persons, where a part of them are dead, and part living, and the issue of those dead have a right to partition, such issue shall take *per stirpes*, that is the share of the deceased parent.

SEC. 6. When any of the children of the intestate shall have received in his lifetime any real or personal estate, by way of advancement, shall choose to come into partition with the other parceners, such advancement shall be brought into *hotchpot* with the estate descended.

SEC. 7. Maintaining, educating or giving money to a child under the age of majority, without any view to a portion or settlement in life, shall not be deemed an advancement.

SEC. 8. In making title by decent, it shall be no bar to a demandant, that any ancestor through whom he derives his descent from the intestate, is, or has been, an alien.

SEC. 9. Bastards shall be capable of inheriting on the part of their mother in like manner as if they had been lawfully begotten of such mother.

SEC. 10. If a man, having by a woman a child, or children, and shall afterwards intermarry with her, and shall recognize such child, or children, to be his, they shall thereby be legitimated.

SEC. 11. The issue of all marriages deemed null in law, or dissolved by divorce, shall be legitimate.

SEC. 12. *Be it further enacted*, That this law take effect from and after its passage.

Approved, March 14th, 1866

CHAPTER IV.

AN ACT to create the County of Muscleshell, define the boundaries thereof, and to establish the County Seat for the same.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That all that District of country embraced within the following described boundaries, is hereby declared to be a county, to be known as Muscleshell County, to-wit: commencing at a point where the line of longitude one hundred and nine West, crosses the Missouri River, thence East, following down the Missouri River, to the line of longitude one hundred and seven West, thence south to the dividing ridge between the waters of the Missouri and Yellowstone Rivers; thence, west along the said dividing ridge to the line of one hundred and nine West longitude, thence North on said line to the place of beginning.

SEC. 2. That Kercheval City is hereby declared to be the County Seat of Muscleshell.

SEC. 3. That the Governor shall have the power to appoint the necessary county officers for said county, who shall hold their respective offices until their successors shall be elected at the next annual election after the passage of this act, and be qualified according to law

SEC. 4. This act to take effect and be in force from and after its passage and approval.

April 10th, 1866.
A. E. MAYHEW,
Speaker of the House of Representatives.
ANSON POTTER,
President of the Council.
Executive Office Virginia City, Montana Territory,
April 10th, 1866.

Approved,

THOMAS FRANCIS MEAGHER,
Acting-Governor Territory of Montana.

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CHAPTER V.

AN ACT requiring the Clerks of the District Courts to give Bonds.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the Clerks of the Territorial District Courts, and persons acting as clerks of the Probate Courts of this Territory, be, and they are hereby required to execute a bond to the people of the Territory of Montana, in the penal sum of five thousand dollars, and an additional amount if required by the Judges of the respective courts, to be approved by the Judges of their respective Districts, conditioned for the faithful performance of their duties as clerks of said courts, and that they will punctually pay over to the person legally authorized to receive the same, all money that may come into their hands by virtue of said office.

SEC. 2. The bonds so executed by said clerks, may be sued upon in the name of the Territory of Montana, to the use of any person or persons injured by their breach, in any court of competent jurisdiction.

SEC. 3. This act to take effect and be in force from and after its passage.

March 23d, 1866.
ANSON S. POTTER,
President of the Council.
A. E. MAYHEW,
Speaker of the House of Representatives.
Executive Office, Virginia City, Montana Territory,
March 26th, 1866.

Approved,

THOMAS FRANCIS MEAGHER,
Acting-Governor Montana Territory.

CHAPTER VI.

AN ACT regulating the Terms of the Probate Court of the County of Deer Lodge, and fixing the places for holding the same.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION 1. That the regular terms of the Probate Court in and for the County of Deer Lodge, Territory of Montana, shall be held on the first Monday of each month, at the places mentioned in the two following sections, and that the said Probate Court of said county, shall have appelate jurisdiction in all civil cases appealed from for Justices of the Peace in said county, and shall try and determine the same at such place when the said court shall hold it regular session; *Provided*, that no case shall be tried in any other place, except when the same shall be commenced, unless the said case or cases be taken away from such place by change of venue, according to the statutes in such cases made and provided.

SEC. 2. That there shall be regular terms of the said court held at the County Seat of said county, on the first Mondays of April, June, August, October, December, and February, of each year, where all cases relating to the settlement of estates and other probate business, shall be tried and determined, and all other cases to be tried and determined either at chancery or common law, that are commenced at the said county seat.

SEC. 3. That the Judge of the said Probate Court, shall hold regular terms of said court at Reynolds City, in the said county, on the first Monday of May, July, September, November, January and March, of each year, and all civil cases, either in chancery or at common law, shall be tried and determined at said terms of the said court, that are commenced at Reynolds City, and that all process issued by the Judge of said court, or the clerk thereof, at the said Reynolds City, shall be made returnable at the said regular terms

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of said court, and that the same shall have the same force and effect as if issued at the county seat; and the Sheriff is hereby required to provide suitable rooms for the holding of the said Court at Reynolds City, as he is required to do at the county seat.

Approved, March 29, 1866.

CHAPTER VII.

AN ACT defining the Jurisdiction of the Probate Courts of Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

SECTION 1. The several Probate Courts, and Judges thereof, in the Territory of Montana, shall have exclusive original jurisdiction, in all cases relative to the Probate of last wills and testaments, the granting letters testamentary and of administration and repealing the same, appointing and displacing the guardians of orphans, minors, and persons of unsound mind; in binding out apprentices, and in the settlement and allowance of accounts of executors, administrators and guardians, to hear and determine all disputes and controversies whatsoever, respecting wills, the right of executorship, administrator and guardianship, or respecting the duties or accounts of executors, administrators or guardians, and all controversies and disputes between masters and apprentices, to hear and determine all suits, and other proceedings instituted against executors, administrators and guardians or curators, upon any demand against the estate of their testator, or intestate, or ward, for any demand whatever, subject to appeal in all cases to the proper court exercising appellate jurisdiction.

SEC. 2. The said Probate Court shall have the exclusive control of th person and property of all idiots, lunatics, and persons of unsound mind, who are incapable of managing their estates, and shall have power to award process, and to cause to come before them all and every person whom they may deem it necessary to examine, whethar parties or witnesses, or who, as executors, administrators, guardians, or otherwise, shall be interested, or in anywise accountable for, any lands, tenements, goods or chattles, belonging to any minor, orphan, or person of unsound mind, or the estate of any deceased person, and may examine every person, on oath or affirmation, touching any matter or controversy before him.

SEC. 3. The Probate Courts of this Territory shall be courts of record, shall keep just and faithful records of all their proceedings, and make full entries of the orders and proceedings of the court whilst in session of each day, which shall be read in open court, on the morning of the succeeding day, except on the last day of the term, when the minutes shall be read and signed by the Judge, at the rising of the court. Said court shall procure and keep a seal, with such emblems and devices as the said court may think proper, and the impression of the seal of any such court by stamp, shall be sufficient sealing, in all cases where sealing is required.

SEC. 4. When no seal is provided, the said Probate Judge, or the clerk of any such Probate Courts, may use his private seal for the authentication of any record, process, or proceedings, required by law, to be authenticated by the seal of this court, and the attestation of the Probate Judge, or clerk, stating that he has no seal of office, and that he has affixed his private seal, shall be received as a sufficient authentication without requiring any proof of such private seal, or that it was annexed.

Sec. 5. The several Probate Judges, and the clerks of their respective courts, shall possess all the powers and jurisdiction given, and perform all

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the duties enjoined, and faithfully execute all the provisions of an act of the Legislative Assembly of the Territory of Montana, entitled an "Act in relation to executors and administrators," approved February 4th, 1865.

Sec. 6. The several Probate Courts of this Territory shall have complete original common law and equity jurisdiction, in all civil cases, and controversies arising under the laws of this Territory, without regard to the character, amount, or subject matter in controversy, and have full and complete original common law and equity jurisdiction, under the laws aforesaid, co-extensive with the District Courts of this Territory, in all civil matters, suits and controversies, to the same extent, and authority as conferred upon said District Courts, by the Organic Act arising under the laws of this Territory, and all laws, acts, and parts of acts, of the Legislative Assembly of the Territory of Montana, applicable to the District Courts thereof, and especially an act entitled "An Act to regulate the proceedings in civil cases in courts of justice, of the Territory of Montana," shall be applicable to the Probate Courts, Judges, and clerks thereof, and to the same extent, and as fully as they are now, or may hereafter be applicable to said District Courts.

Sec. 7. The Probate Courts, or the Judges thereof, in vacation, shall have full power and jurisdiction in all respects, co-extensive with the district courts, or judges thereof, either in term time or at chambers, to try and determine all suits of mandamus, *quo warranto*, *habeas corpus*, and to grant injunctions in all cases in which injunctions are allowed, under the laws of this Territory, and shall have power to issue all writs, process, or orders necessary and proper to the complete exercise of any of the powers conferred by the provisions of this act, which writs, process, or orders shall, in all cases be made returnable, and executed by the proper officer, at the time and in the manner required by the laws of this Territory.

Sec. 8. The said Probate Court sitting at a court of chancery, shall have jurisdiction, and full power to hear and determine all suits of divorce and alimony, and may, during the pendency of said suit, make such order allowing maintenance of the wife, the care and custody of the children, as he may think just and proper, and the like process issued, and practice and proceedings shall be had thereon, as are usually had in cases in chancery, and in pursuance to the provisions of an act of the Legislative Assembly of this Territory, entitled "an act concerning divorces and alimony."

Sec. 9. The several Prebate Judges and Probate Courts, in the several counties in this Territory, shall have all the powers, and perform all the duties given and enjoined upon them by this act, and no person shall be elected or appointed to the office of Probate Judge in this Terrritory, unless he be a resident of the county in which he shall be elected or appointed, of good moral character, and learned in the law.

Sec. 10 The several Probate Judges of this Territory shall have power to appoint their own clerks, and said clerks shall perform all the duties, and possess all the powers conferred by any law of this Territory, upon the clerks of the District courts, and have all the powers, and perform all the duties required of them by an act af the Legislative Assembly of the Territory of Montana, entitled "an act in relation to executors and administrators," approved February 4th, 1865, or the said Probate Judges shall act as their own clerks, and as such, shall have the same powers, and perform the same duties, and be entitled to the same compensation as clerks of the Probate or District courts are, or may be allowed by law.

Sec. 11. The several Probate courts and Judges of this Territory shall have and exercise appellate jurisdiction, co-extensive with the distric courts, from all judgments and verdicts and proceedings in all civil cases of the several Justices of the Peace of their respective counties, and other inferior judicial officers, and all appeals to said court shall be taken in the

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same manner, and shall be reheard and determined in the same manner, and be governed by the same laws, rules and practice as are now, or may hereafter be applicable to the district courts of this territory in such appeals.

Sec. 12. The several Probate Judges of this Territory shall be conservators of the peace, and shall have criminal jurisdiction, co-extensive with Justices of the Peace, under the laws of this Territory, all misdemeanors and offenses now cognizable under the laws of this Territory, before such Justices of the Peace, and all the laws of this Territory applicable to the power and authority of Justices of the Peace, in the exercise of their jurisdiction, practice and procedure, in such cases, shall, in all respects, be applicable to said Probate Courts, or the judges thereof: *Provided*, that appeals shall be made from any rule, order, or judgment, made under the provisions of this section. to the district court.

Sec. 13. Appeals shall be allowed in all cases from judgments, findings, decrees, or final orders of said Probate court, directly to the Supreme Court of this Territory, in the same manner, and in accordance with the same rules and practice now in force in this territory, regulating appeals from the district courts to the said supreme courts, and all laws, acts, and parts of acts in this territory, regulating appeals from the district courts to the supreme court of this territory, shall, in all respects, be applicable to said probate court, and appeals therefrom to said supreme court.

Sec. 14. The regular terms of the Probate courts in the several counties in this territory, Deer Lodge county excepted, shall be held at their respective county seats, on the first Mondays of April, June, August, October, December, and February, in every year.

Sec. 15. *Be it further enacted*, that all laws, acts or parts of acts, repugnant to, or inconsistant with, the provisions of this act, be, and the same are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its passage.

Approved April 5th, 1866.

CHAPTER VIII.

AN ACT Defining the Council and Representatives Districts of the Territory of Montana, and apportioning the Members of the Legislative Assembly thereof.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Section 1. That the next session of the Legislative Assembly of the Territory of Montana shall be convened at the seat of Government of said territory, on the first Monday of November, at noon, one thousand eight hundred and sixty-six, and annually thereafter.

Sec. 2. At the general election in September, one thousand eight hundred and sixty-six, (1866,) there shall be elected thirteen members of the Council, and twenty-six members of the House of Representatives.

Sec. 3. That the territory of Montana is hereby divided into six Council, and eight Representative Districts, as follows:

First Council District—Madison county — three members of the Council.

Second Council District—Deer Lodge county—three members of the Council.

Third Council District — Edgerton county—three members of the Council

Fourth Council District—Meagher and Chouteau counties—two members of the Council.

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Fifth Council District—Beaver Head and Missoula County—one member of the Council.

Sixth Council District—Gallatin, Jefferson, and Big Horn counties—one member of the Council.

First Representative District—Madison county—five members of the House.

Second Representative District—Deer Lodge county—five members of the House.

Third Representative District—Edgerton county—five members of the House.

Fourth Representative District—Meagher and Chouteau counties—four members of the House.

Fifth Representative District—Beaver Head county—two members of the House.

Sixth Representative District—Missoula county—two members of the House.

Seventh Representative District—Gallatin and Big Horn counties—two members of the House.

Eighth Representative District—Jefferson county—one member of the House.

Sec. 4. The person or persons having the highest number of votes in each District, for member of the Council and House of Representatives, shall be declared duly elected, and shall be entitled to the certificate of such election, on application at the office of the Secretary of the Territory.

Sec. 5. This act to take effect and be in force from and after its passage and approval by the Governor.

Approved, March 26th, 1866.

CHAPTER IX.

AN ACT in regard to Publication of Court, Legal, and other Notices in the Newspapers of Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. That all orders of courts, summons, Sheriffs' sales, and estray notices, required to be published in the several newspapers of this Territory, shall not be charged at any higher rates than the advertised terms of said newspapers for other advertisements per square; and the said newspapers are hereby authorized to charge their published rates as aforesaid, and no more.

Sec. 2. That the fees for such publications as are enumerated in section one shall be taxed as other costs are, and collected in the same manner.

Sec. 3. All acts or parts of acts, coming in conflict with this, be, and the same are hereby repealed.

Sec. 4. This act to be in force from and after its passage and approval by the Governor.

Approved April 10th, 1866.

CHAPTER X.

AN ACT to divide the present County of Gallatin, and to create New Counties out of the same.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the portion of this Territory now known as Gallatin county be, and the same is hereby divided by an imaginary line running due East and West across said county, crossing the Missouri River, at

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the head of the canon, on said stream, at the lower end of Horse-shoe Bend, and that all that portion of said county, now known as Gallatin County, lying South of said imaginary line be, and the same is hereby called, and hereafter to be known as Gallatin County; and all that portion of said County, now known as Gallatin County, lying North of said imaginary line, be, and the same is hereby called, and hereafter to be known as Meagher County.

Sec. 2. That the said County of Meagher shall be, and the same is hereby attached to, and made a part of the third Judicial District of the Territory of Montana, and the Judge assigned to the said third Judicial District shall hold two terms of the District Court in said county in each year—one term on the ———— Monday of ————, and the other on the ———— Monday of ————; and that the said County of Gallatin shall be, and the same is hereby attached to, and made a part of the first Judicial District of the Territory of Montana; and the Judge assigned to said Judicial District shall hold two terms of the District Court, in said County in each year—one term to be held on the third Monday of May, and the other term to be held on the third Monday of November, of each year; and the District Attorney, now acting in said Judicial Districts shall serve as public prosecutor, and discharge all the duties appertaining to the office of District Attorney, according to law in said counties of Gallatin and Meagher, hereby attached to their respective Districts.

Sec. 3. That the Governor acting, of this Territory, is hereby authorized and empowered to appoint, by, and with the advice of the Council, immediately after the passage of this act, good and competent men, to fill all the county offices, in said county of Meagher, and the persons so appointed shall qualify according to law, within ten days after the notice of their appointment, and shall discharge all the duties appertaining to their respective offices, until the next general election, and in the mean time the county seat for said county, shall have temporary location at Diamond City, and the qualified electors of said county of Meagher, shall, at the next general election, have power to change, and locate the permanent county seat of said county, by a majority of said qualified voters, and at such election, the place having the highest number of votes, shall be declared the county seat in and for said county.

Sec. 4. That immediately after the passage of this act, and approval by the Governor, the qualified electors of that portion known as the county of Gallatin, are authorized and empowered to hold a special election, in their respective voting precincts within the boundaries of the said county, as made by this act, on the 2nd Monday of May, A. D. 1866, to elect a Probate Judge, County Clerk, Sheriff, Treasurer, Assessor, and three Commissioners, and Justices of the Peace, and Constables in each township, according to law. That the said qualified electors of said county of Gallatin are also authorized, and empowered, and it shall be their duty to locate the county seat of said county of Gallatin at said election, on the second Monday of May, A. D. 1866, by a majority vote of the qualified electors of said county, and the name of the place voted for, for said county seat, shall be distinctly printed or written on the ballot of the elector, and the place receiving the highest number of votes shall be the county seat of the said county of Gallatin.

Sec. 5. That each portion of the county so divided, shall bear its just proportion of the public debt due and owing from said county of Gallatin.

Sec. 6. This act to take effect and be in force from and after its passage and approval.

Approved March 26, 1866.

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CHAPTER XI.

AN ACT to amend and act, entitled an act, Concerning licenses, approved February 9th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SECTION, 1. There shall be levied and collected by the tax collecter, a license tax, as follows:

First, from each billiard table for public use, sixteen dollars per quarter.

Second, from the manager or lessee of every theatre, four dollars per day, or forty dollars per month, and for each exhibition of serenaders, opera, or concert singers, minstrels, slight of hand performances, ledgerdemain, and all other shows and exhibitions, the same payment for license as is required for theatrical performances.

Third, And all dance houses, or hurdy-gurdy houses shall pay five dollars per day, or fifty dollars per month.

Fourth, From each and every insurance company transacting business in this territory, the sum of forty dollars per year.

Fifth, from each pawn broker, forty dollars per quarter.

Sixth, from each keeper of an intelligence office, or assayer of minerals, quartz rock, twelve dollars per quarter.

Seventh, each professional man, before practicing as such; all lawyers, dentists, physicians, surgeons, and all other professions, shall pay a license of sixteen dollars per annum.

SEC. 2. Licenses shall be obtained by the persons, private association, or incorporation, doing business in this territory, engaged in any one or more of the following occupations, to-wit: in buying or selling foreign or inland bills of exchange, or in loaning money at interest, or in buying or selling notes, bonds, or other evidences of indebtedness of private persons, or territorial, county, or city stocks or indebtedness, or stocks of incorporated companies, or incorporated companies, or person or persons, or in buying or selling gold dust, or gold or silver bullion, gold or silver coins, keepers of savings banks, or engaged as common carriers, in transmitting or carrying gold dust, gold or silver coin or bullion from one place to another, for hire or profit, or engaged in receiving general or special deposits of gold dust, gold or silver coin or bullion, including all brokers; and shall be divided into five classes, as follows:—those doing business in the aggregate to the amount of two-hundred thousand dollars per quarter, shall constitute the first class, and shall pay a license of eighty dollars per quarter. Those doing business to the amount of one hundred and fifty thousand dollars, and less than two hundred thousand dollars per quarter, shall constitute the second class, and shall pay a license of sixty four dollars per quarter; all those doing a business to the amount of one hundred thousand dollars per quarter, and less than one hundred and fifty thousand dollars per quarter, shall constitute the third class, and shall pay a license of forty dollars per quarter; and all those doing business to the amount of fifty thousand dollars per quarter, and less than one hundred thousand dollars per quarter, shall constitute the fourth class, and shall pay a license of thirty-two dollars per quarter; and all those doing business less than fifty thousand dollars per quarter, shall constitute the fifth class, and shall pay a license of twenty-four dollars per quarter; said amounts to be paid to the collector of taxes in the county in which the party applying therefor desires to or does transact any or all of the occupations specified herein, and a separate license shall be obtained for each branch or separate house of business in the same county.

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SEC. 3. All bankers, or such persons or corporations as are engaged in buying or selling foreign or domestic bills of exchange, or drafts, shall be divided into five classes, as follows:—Those doing business to the amount of five hundred thousand dollars per month, shall constitute the first class, and shall pay a license of eighty dollars per month; all those doing business between the sums of three and five hundred thousand dollars per month shall constitute the second class, and shall pay a license of sixty-four dollars per month; all those doing business between the sums of two and three hundred thousand per month, shall constitute the third class and shall pay a licence of forty-eight dollars per month; all those doing business between the sums of one and two hundred thousand dollars per month, shall constitute the fourth class, and pay a license of thirty-two dollars per month; and all those persons doing business in any sum less than one hundred thousand dollars per month, shall constitute the fifth class, and shall pay a license of twinty-four dollars per month.

SEC. 4. All keepers of livery stables, keepers of hay yards, or corrals for feeding or keeping stock, or selling hay, shall pay a license of twelve dollars per quarter, and all ranchmen who keep or herd stock for hire, shall pay a license of twelve dollars per quarter.

SEC. 5. Every person who has a fixed place of business, who may deal in goods, wares, or merchandise, wines or distilled liquors, drugs or medicines, jewelry, or wares of precious metals, shall pay a license, as follows:

Those who are estimated to make average monthly sales of one hundred thousand dollars or more, shall constitute the first class; those whose monthly sales are estimated between seventy-five thousand and one hundree thousand dollars, shall constitute the second class; those whose monthly sales are estimated between the sums of fifty and seventy-five thousand dollars, shall constitute the third class; those whose monthly sales are estimated between forty and fifty thousand dollars, shall constitute the fourth class, those whose monthly sales are estimated between thirty and forty thousand dollars, shall constitute the fifth class; those whose monthly sales are estimated between twenty and thirty thousand dollars, shall constitute the sixth class, those whose monthly sales are estimated between ten and twenty thousand dollars, shall constitute the seventh class; those whose monthly sales between five and ten thousand dollars, shall constitute the eighth class; all those whose estimated monthly sales are between three and five thousand dollars, shall constitute the ninth class; and all those whose estimated monthly sales are less than three thousand dollars, shall constitute the tenth class. The first class shall pay a license of eighty dollars per month; the second class, sixty dollars per month; the third class shall pay forty dollars per month; the fourth class, shall pay thirty-two dollars per month, the fifth class shall pay twenty-four dollars per month; the sixth class shall pay twenty dollars per month; the seventh class shall pay sixteen dollars per month; the eighth class shall pay fifteen dollars per month; the ninth class shall pay twelve dollars per month; the tenth class shall pay ten dollars per month: Provided, that the sales of liquors and wines licensed under this section, shall not be in less quantities than one gallon; and no license shall be issued for less than three months. All auctioneers shall procure a license, and shall pay therefor the sum of sixteen dollars per month; Provided no license shall be required for sale of goods on execution, or sheriff's sale under attachment, or order of any court. All persons coming into this territory with droves of stock, for sale, shall pay a license of eighty cents for each head of neat cattle, cattle, horses, mules or asses, and fifteen cents for each head sheep, and fifty cents per head for each head of swine, so offered for sale.

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SEC. 6. All tavern and inn-keepers, and persons who may dispose of any spirituous, malt or fermented liquors, in quantities less than one gallon, shall, before the transaction of any such business, obtain a license, for which they shall pay the sum of fifty dollars per quarter, Provided, such tavern or inn-keeper shall not carry on such business within three miles of any city or town, when said license shall be fifteen dollars per quarter.

SEC. 7. Every traveling merchant, hawker or pedler, who shall carry a pack or trunk, and shall vend goods, wares, and merchandise, shall pay a license of four dollars per month; and every travelling merchant, hawker, peddler, or dealer in provisions not raised or produced by himself in the Territory, who shall use a wagon or cart, drawn by one or more animals, shall pay a license of eight dollars per month; and every person who shall come into the Territory, with one or more wagon loads of goods, wares, merchandise, or provisions not raised by himself in this territory, and offer the same for sale, shall pay a license of five dollars, for each wagon so loaded; Provided, such load of goods, wares, merchandise or provisions does not exceed in value one thousand dollars, and if said load exceed one thousand dollars in value, then the person so offering the same shall pay one half per cent upon such excess over one thousand dollars; provided further, that when any person bringing freight, provisions, or merchandise into this territory, shall have once paid his license in accordance with the last mentioned license on wagons, in this section, he shall have the right to wholesale and retail the same at pleasure.

SEC. 8. All keepers of Houses of entertainment, boarding houses and inn keepers; and tavern keepers, where no intoxicating liquors shall be sold, shall pay a license of eight dollars per quarter.

Sec. 9. Every Brewer or manufacturer of malt or spiritous liquors, fermented liquors, soda water, pop beer or drinks to be put up in bottles, shall pay a license of eight dollars per month.

Sec. 10. Every butcher shall pay a license of ten dollars per month, and every artist or keeper of a picture gallery, daguerreotypest, ambrotypest, or other artist, shall pay a license of four dollars per month.

Sec. 11. Every person who shall keep any gaming table, gaming house, roulette, wheel of fortune, dice, cards, or any game of chance or hazard, not prohibited by any laws of this territory, for amusement or profit shall pay a license of fifty dollars per month for each house so kept.

Sec. 12. Be it enacted that all incorporated roads, bridges or ferry, or water companies within his territory, whose income shall reach the sum of two thousand dollars, over and above all expenses, and not to exceed five thousand dollars, shall pay a tax of ten dollars per quarter; and those whose income shall reach five thousand dollars, and not to exceed ten thousand dollars shall pay a tax of twenty dollars per quarter; and those whose income shall reach ten thousand dollars, and not exceed twenty thousand dollars, shall pay a tax of forty dollars per quarter; and all those whose income shall exceed twenty thousand dollars, and not exceed forty thousand dollars, shall pay a tax of eighty dollars per quarter; and all, whose income shall exceed forty thousand dollars, shall pay a tax of one hundred dollars per quarter.

Sec. 13. *Be it further enacted*, That it shall be the duty of any corporators to cause any president, secretary, chief officer, or directors of said companies, once in each year to file with the treasurer of the county in which said company is located, doing business, or in which they have their office, a sworn statements of all their receipts, and expenditures and it shall be the duty of said treasurer to examine said report, and shall have power to hear testimony for and against the same; and if he approve the same, he shall proceed to collect the tax imposed by this act, upon said company or corporation as provided by law in other cases.

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Sec, 14. *Be it further enacted,* That any person required by the provisions of section thirteen of this act, to file the statement therein required, who is to swear to the same, knowing that said report is false or untrue in any material part, such person shall be deemed guilty of perjury, and upon conviction, shall be imprisoned in the county jail, or territorial prison, not less than three nor more than five years.

Sec. 15. Licenses may be granted under the provisions of this act for one year, or less, at the option of the applicant, provided no license shall be granted for a less time than that mentioned in the rates of assessment of license in this act.

Sec. 16. Each tax collector shall make diligent inquiry and examination as to all persons in his county liable to pay license required in this act, and it shall be his duty to require each person to state under oath or affirmation the amount of bussiness which he, or the firm of which he is a member, or for which he is the agent or attorney, or the association or corporation of which he is the president or officer, have done in the last preceding month or quarter; and also to make a statement under oath, if required, in order to carry out the provisions of this act, and thereupon such agent or other person shall procure a license for such month or quarter, for the class of which such party is liable to pay; and in all cases where an under estimate has been made, the applicant shall be made to pay double license for the next month or quarter; such license shall authoize the party obtaining the same in his county to transact business as provided in his license; Provided, however, that nothing in this act or any license issued under it, shall be to authorize any person to carry on any business without procuring such additional license, as may be lawfully required by the laws of the United States, or of any Incorporated city.

Sec. 17. Any person, or persons, who shall commence or continue to carry on or transact any business, trade, profession, or calling for the transaction of which a license is required by this act, without a proprer license as herein required, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than ten dollars, nor more than one hundred dollars and the collector may commence suit in the name of the people of the United States in the Territory of Montana. And in such case, either the collector or attorney, may make the affidavit, and a writ of attachment may issue without any bonds given by the plaintiffs, and in case of a recovery by the plaintiffs the sum of twenty dollars, liquidated damages shall be included in the judgment and costs, and be collected from the defendant, and five dollars thereof shallbe paid to the collector, and fifteen dollars to the prosecuting attorney, prosecuting the suit.

Sec. 18. Upon the trial of any criminal action, provided for by this act, the defendant shall be deemed not to have procured the proper license, unless he either produces it, or proves that he did procure it, but he may plead in bar of the criminal action, a recovery and payment by him, in a civil action of the proper license money, damages and cost. The money collected for license, provided for in this, and the preceding sections shall be paid into the county Treasury; sixty per cent for the use of the county and forty per cent for territorial purposes.

Sec. 19. The license provided for in this act shall commence at the passage and approval of this act; and all acts, and parts of acts, inconsistent with the provisions of this act, be, and the same are hereby repealed.

Sec. 20. This act shall take effect and be in force from and after its passage and approval.

Approved, April 13th, 1866.

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CHAPTER XII.

AN ACT Defining the duties of the Superintendent of Public Instruction, for the Territory of Montana, and fixing the salary of the same.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. That there shall be appointed by the Governor, by and with the advice and consent of the Council, a Territorial Superintendent of Public Instructions, whose term of office shall commence from the date of his commission, and continue until his successor is duly appointed and qualified, and shall receive an annual salary of five hundred dollars, to be paid out of any contingent funds of the territory not otherwise approriated.

Sec. 2. He shall file all papers, reports and public documents transmitted to him by the school officers of the several counties each year seperately, and hold the same in readiness to be exhibited to the Governor, or to any committees of either house of the Legislative Assembly, and shall keep a fair reccord of all matters pertaining to the bussiness of his office.

Sec. 3. He shall have a general supervision of all the school districts of the territory, and shall see that the school system is, as early as practicable, put into iniform operation.

Sec. 4. He shall prepare and have printed, suitable forms for all reports required by this act, and shall transmit the same with such instructions in reference to the course of studies as he may deem advisable to the several officers entrusted with their management and care.

Sec. 5. He shall make all further rules and regulations that may be necessary to carry the law into full effect according to its spirit and intent.

Sec. 6. He shall cause so many copies of this act, with the forms, regulations and instructions herein contemplated, thereto annexed, to be from time printed and distributed among the several school districts of the territory, as he shall deem expedient.

Sec. 7. He shall make an annual report to the Governor of the territory, which said report, shall be transmitted to the Legislature at the regular session thereof, and said report shall exhibit the condition of public schools, and all other matters relating to the affairs of this office.

Sec. 8. This act to take effect and be in force from and after its passage and approval.

Approved, April 10, 1866.

CHAPTER XIII.

AN ACT to amend an act, entitled an act to establish a Common School System for the Territory of Montana, approved February 7th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. That section two of chapter one of said act, be so amended as to authorize and require the boards of county Commissioners of their respective counties in the territory, to levy a school tax of not less than one, nor more than three mills on the dollar, on all taxable property within their respective counties, for the support of common schools, instead of one mill on the dollar, as provided in section two of said act.

Sec. 2. That section four of chapter one of said act, be so amended as to authorize and require the auditors of the several counties in the territory, to make a report to the county superintendents of common schools within their respective counties, at least twenty days before the first day

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of May and November of each year, the amount of tax levied in their respective counties for that year.

Sec. 3. That section eight of chapter one of said act, be so amended as to authorize and require the county superintendents of the several counties of the territory to make and furnish the statement required by said section, twice a year instead of once a year; and that said statement be made and furnished on or before the first day of May and November of each year.

Sec. 4. That section nine of chapter two of said act be so amended, as to authorize and require the county superintendents of the several counties of the territory, to make an apportionment of the school fund in the county treasury, subject to his order, on, or before the first day of May and November of each year.

Sec. 5. That the county treasurers of the several counties of the territory, shall make a report to the county superintendents of their respective counties, of all school moneys in their possession, subject to the order of said superintendents at least twenty days before the first day of May and November of each year; said report shall state the source from which said moneys were derived.

Sec. 6. That the county Superintendents of the several counties of the territory, shall make out a concise statement of the number of schools taught within their respective counties, and the number of children having attended said schools; the number of teachers employed, the amount of moneys paid such teachers; the amount of school funds collected; the amount expended, and for what purpose expended, and transmit the same to the Superintendent of Public Instruction for the Territory, on or before the first day of November of each year.

Sec. 7. That all laws and parts of laws conflicting with the provisions of this act be, and the same are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its approval by the Governor.

Approved March 30, 1866.

CHAPTER XIV.

AN ACT defining the Duties of the Territorial Auditor and Treasurer of the Territory of Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana:

SEC. 1. That the Auditor of the Territory shall issue no warrants drawn upon the Territorial Treasurer, in favor of any person, without express authority of law, and shall specify the name of the party, the service performed, for which the same is issued, with the amount and number of the warrant.

Sec. 2. The Auditor shall keep a record of all warrants issued by him, shall report to the Legislature of the Territory, at the commencement of each session thereof, the number and amount of warrants issued by him, and under what law the same have been issued.

Sec. 3. He shall furnish the collector of each county or District with blank receipts for money collected, or to be collected, subscribed by himself, taking said collector's receipt for the same.

Sec. 4. He shall direct prosecution in the name of the Territory, against all delinquent collectors of the Territorial Revenue, and against all debtors of the territory, or persons being in possession of the public funds, moneys or property, who may neglect or refuse to pay or deliver the same to the proper officer.

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Sec. 5. He shall settle all claims against the Treasury, and when the law recognizes a claim, but no appropriation has been made therefor, to settle the claim, and give the claimant a certificate thereof, and report the same to the General Assembly.

Sec. 6. He shall be the custodian of, and keep all books, papers, records, documents, vouchers, and all conveyances, leases, mortgages, bonds, and other securities, appertaining to the fiscal affairs and the property of the Territory which are not required by law to be kept in some other office, and to have charge of all property of the Territory, where no other provision is made by law for its custody.

Sec. 7. He shall furnish to the Governor, on his requisition, information in writing, upon any subject connected with his office, and suggest to the Governor, or to the General Assembly, plans for the improvement and management of the public revenue, and property.

Sec. 8. He shall report to the General Assembly, at its regular session, and at such other times as it may require, a complete statement of the revenue, funds, income, taxable property, and other resources of the Territory, and of the property of the territory known to his office, and of the public revenues and expenditures of the territory since his last report, up to the Monday immediately preceding each regular session, with a detailed estimate of the expenditure to be defrayed from the treasury for the ensuing year, specifying each object of expenditures, and distinguishing between such as are provided for by appropriations, and such as require to be provided for, and showing the probable deficiency of any former appropriations. He shall make a full detailed statement of all expenditures, claims and demands by him audited and allowed, and shall, in his report, give separately the items and claims to each and all persons in whose favor he has audited any demand, and under what law allowed, the date of the allowance. In case any auditor or treasurer, shall fail or refuse to make his settlement and statement at the time and in the manner required by this act, he shall be deemed guilty of a contempt, and if he shall still refuse to settle upon being requested by the Legislature. it shall be the duty of the President of the Council to issue his warrant for the apprehension of such Auditor, and cause him to be brought before the Council, and may commit him to the common jail of the county until he makes such settlement.

Sec. 9. He shall perform all other duties which may, from time to time, be required of him by law. If any officer who is accountable to the treasury in respect to any money or property, neglects to render his accounts to the Auditor, within the time prescribed by law, or if no such time be prescribed, then within twenty days after he be required so to do by the auditor, the auditor shall state an account against him from the books of the Auditor's office, charging ten per cent damages on the whole sum appearing due, and interest at the rate of ten per cent, per annum, on the aggregate, from the time when the account should have been rendered, all which may be recovered by an action brought on such account stated, or on the official bond of the officer. If any such officer fails to pay into the treasury the amount received by him, within the time prescribed by the law, or having settled an account with the auditor, fails to pay the amount due from himself, the auditor shall charge him with twenty per cent damages on the amount due with interest on the aggregate, from the time the first sum was payable at the rate of ten per cent per annum, and the whole may be recovered by an action brought on either such account stated, or the official bond of the officer, and he shall forfeit his commission. The penal provisions in this section are subject to any legal defense which the officer may have against the account as stated by the Auditor, but judgment for cost shall be rendered against the officer, in the action,

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whatever be its result, unless he rendered an account within the time named in this section. In those cases where the Auditor is authorized to call upon persons or officers for information, or statements, or to render accounts, he may issue his requisition therefor, to the person or officer called upon, allowing reasonable time, which, being served as a notice in a civil action by the sheriff, or any constable of the county in which the person or officer called upon resides, or exercises his office, and returned to the auditor with the service endorsed thereon, shall be evidence of the making the requisition therein expressed. All things pertaining to the Auditor's office, are at all times open to the inspection of the Governor, the General Assembly, or either house thereof, and to any committee thereof, appointed to examine them.

Sec. 10. He shall keep his office at the seat of Government, which office shall be furnished with all needful maps, books, blanks, cases for books, stationery, fuel, etc.

Sec. 11. He shall make a quarterly report of the expenses of his office, specifying each item, and to whom paid.

Sec. 12. The Auditor shall receive a salary of seven hundred dollars, which shall be paid quarterly out of the Territorial Treasury: *Provided*, that when any person desires more than one warrant to be issued to him, on an account stated, for any entire service performed, said Auditor shall receive from the person so desiring more than one warrant, the sum of twenty-five cents for each warrant so demanded.

Sec. 13. The Auditor shall receive, in addition to his salary, five per cent. on all warrants issued by him, on the first twenty-five thousand dollars, and three per cent. on all additional amounts.

Sec. 14. It shall be the duty of the Territorial Treasurer to keep a book, in which he shall enter all Territorial warrants presented for payment, giving the name of the owner, the number and amounts of the warrants, and they shall be paid in the order in which they are presented—keep a just and true account of all money received, and disbursments thereof. He shall render his accounts to the Auditor, for settlement, quarterly, or oftener, if required. He shall report to the Legislative Assembly, at the commencement of each regular session, the condition of the Treasury, and its operations for the preceding year.

Sec. 15. He shall quarterly post upon the door of his office, a list of any warrants that he may have funds to redeem or pay, the payment of which has not been demanded during the month last past, and from the date of such notice, the interest on all warrants thus posted shall cease.

Sec. 16. He shall keep his office at the seat of Government, which office shall be furnished at the expense of the Territory, with all needful maps, books, blanks, cases for books, stationery, fuel, etc.

Sec. 17. He shall make a quarterly report to the Auditor, of the expenses of his office, specifying each item, and to whom paid.

Sec. 18. When any amount is paid into the treasury, the Treasurer is required to give the person paying, receipts in duplicate, stating the fund to which the money belongs, one of which may be kept by him, and the other must be delivered to the auditor, in order to obtain the proper credit, and the amount shall be charged to the Treasurer.

Sec. 19. It is his duty to submit his books, accounts, vouchers, and funds, to the inspection of the Governor, the Legislative Assembly, either house thereof, or any committee of either house appointed for that purpose, when required thereby.

Sec. 20. He shall receive a salary of seven hundred dollars, which shall be paid quarterly out of the Territorial Treasury.

Sec. 21. He shall receive, in addition to his salary, five per cent on the first ten thousand dollars, and two and one-half per cent on all additional

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amounts, and in addition thereto, shall receive twenty five cents for each Territorial warrant registered by him, to be paid by the party presenting the same.

Sec. 22. The Auditor and Treasurer shall have full access to each other's office, for the inspection of all books, papers and accounts thereof, and to all other offices of the territory, for the inspection of all such books as concern their duties.

Sec. 23. They are authorized to administer oath or affirmation, and compel the attendance of witnesses, as in courts of record, in all matters touching the duties of their offices.

Sec. 24. The Auditor shall be required to give a bond with two or more sufficient sureties. in the sum of ten thousand dollars, to be approved by the Secretary or Governor of the Territory, which bond may be increased from time to time, or new or additional bond and securities may at any time, be required by the Governor or Secretary of the Territory, or by the Legislative Assembly thereof.

Sec. 25. The treasurer shall be required to give a bond, with two or more sufficient sureties, in the sum of twenty-five thousand dollars, to be apprroved by the Secretary or Governor of the Territory.

Sec 26. That an act entitled "An Act defining the duties of the Territorial Auditor and Treasurer of the Territory of Montana," approved February 8th, 1865, be, and the same is hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its passage.

Approved April 9th, 1866.

CHAPTER XV.

AN ACT to amend and act, entitled an act, to regulate proceedings in Civil Cases in the Courts of Justice of the Territory of Montana, passed Jan'ry. 23d, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. The plaintiff at the time of filing his complaint, and issuing of summons thereon, or at any time afterwards, may have the property of the defendant attached as security for the satisfaction of any judgment that may be accorded; unless the defendant give security to pay such judgment in the following cases:

First, in an action upon a contract, express or implied, for the direct payment of money or specific property, which contract was made, or is payable in this territory, and is not secured by a mortgage, lien or pledge upon real or personal property, or if so secured, that such security has been rendered nugatory by the act of defendant, or upon a debt made out of this territory and not barred by the statute of limitation.

Second, in an action upon a contract express, or implied against a defendant not residing in this territory.

Sec. 2. The clerk of the court shall issue the writ of attachment upon receiving an affidavit by, or on behalf of the plaintiff, which shall be filed, showing, first, that the defendant, is indebted to the plaintiff specifying the amount of such indebtedness over and above all legal set-offs and counter claims upon a contract express or implied, for the direct payment of money or specific articles of personal property; and that such contract was made, or is payable in this territory, and if made out of this territory, that the same is not barred by any statute of limitations of this territory; that the payment of same has not been secured by any mortgage, lien or pledge upon any real, or personal property, or if so secured,

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that such security has been rendered nugatory by the act of the defendant or second, that the defendant is indebted to the plaintiff, specifying the amount of such indebtedness, as near as may be over and above all legal off-sets and counter claims, and that the sum for which the attachment is asked, is an actual, *bonafide*, existing debt, or demand, due and owing from the defendant to the plaintiff, and that the attachment is not sought, and the action is not prosecuted to hinder, delay, or defraud any creditor or creditors of the defendant.

Sec. 3. Before issuing the writ, the clerk or judge shall require a written undertaking on the part of the plaintiff in a sum in all cases at least double the demand of the plaintiff, and not less in any case than two hundred dollars, with sufficient surities, which sum may be increased at the pleasure of she court in all cases of a sum sufficient to cover all costs in the case, and damages the defendant may sustain; conditional, that if the defendant recover judgment, or if the attachment should be dismissed, the plaintiff will pay all costs that may be awarded to the defendant, and all damages which the defendant may sustain by reason of the wrongful issuing of the attachment, not exceeding the amount specified in the undertaking.

Sec. 4. The writ shall be directed to the sheriff of any county in which property of such defendant may be found, and require him to attach and safely keep all the property of such defendant within his county not exempt from execution, or so much thereof as may be sufficient to satisfy plaintiff's demand, the amount of which shall be stated in conformity with the complaint, unless the defendant deposit the amount, or give him security by the undertaking of at least two sufficient surities in an amount sufficient to satisfy such demand, besides costs, in which case the sheriff is authorized to take such deposits or undertaking, and the court may at its discretion, tax the costs of such attachment, prior to the giving of said bond or deposit, against the plaintiff.

Sec. 5. Nothing in section 96, of the act to which this is amendatory, shall be so construed as to require any sheriff or other person or officer having in his charge the execution of any order or writ of attachment to post any notice upon any quartz claim, quartz feet or lode, levied upon or attached by him in pursuance to the commands of any such writ or order.

Sec. 6. In all cases where such officers shall make a levy as aforesaid upon any of the property mentioned in section 5 of this act, it shall be his duty to make a complete list or inventory of all such property levied on by him, and file the same in the office of the Recorder of the County in which said property is located, and from the time of the filing of the same, it shall impart notice to all persons of the levy aforesaid, and from the time of the filing thereof, shall remain a lien upon the property so levied upon.

Sec. 7. That section 91, 92, and all other sections and parts of acts to which this is amendatory, and inconsistent with the provisions of this act, be, and the same is hereby repealed.

Sec. 8. This act shall take effect, and be in full force and effect, from and after its passage.

Approved, April 12th, 1866.

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CHAPTER XVI.

AN ACT to amend an act entitled an act to regulate proceedings in Civil Cases in the Courts of Justice of the Territory Montana.

Be it enacted by the Legislative Assembly of the Territory of Montana.

SECTION 1, That section thirty-one of an act entitled an act to regulate proceedings in civil cases in the courts of justice of the Territory of Montana, be so amended as to read as follows: The order shall direct the publication to be made in a newspaper to be designated as most likely to give notice to the person to be served, and shall be published at least once a week for three consecutive weeks, and the last insertion shall be at least twenty days previous to the first day of the term in which the defendant is notified to appear. In case of publication where the residence of the non-residents, or absent defendant is known, the court or judge shall also direct a copy of summons to be forthwith deposited in the post office by the clerk directed to the defendant at his place of residence, when publication is ordered. Personal service of a copy of summons, out of the territory, shall be equivalent to publication, and deposit in the post office. In either case the service shall be complete at the expiration of the time precribed by the order of publication.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved, April 9th, 1866.

CHAPTER XVII.

AN ACT to authorize the several County Commissioners of the several counties of this Territory to fund the debt of their respective Counties.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That the County Commissioners of the different counties of this Territory, shall have, in addition to the powers already conferred by law, authority to call in at any time when they shall deem it expedient for the interest of their respective counties, all outstanding orders against the treasury of the county, and may issue bonds, with interest bearing coupons payable semi-annually, in lieu thereof: *Provided*, the holders of such warrants, or orders, present the same for cancellation.

Sec. 2. All bonds that may hereafter issue under the provisions of this act, shall be made payable within five years from their respective dates, and shall draw interest at the rate of twelve and one-half per cent. per annum, and no more; said interest to be paid semi-annually by the county Treasurers of the different counties, out of any moneys in the hands of said Treasurer.

Sec. 3. The County Commissioners of the different counties may set apart from the ordinary revenue of their respective counties, for the payment of outstanding bonds, and the interest thereon, a certain amount annually: *Provided*, that the sum annually set aside, shall not exceed one-fifth of the amount of outstanding bonds, exclusive of interest, *and provided, also*, that the amount so set aside, shall not at any time, exceed the whole amount of outstanding bonds, and the interest on the same.

Sec. 4. All bonds issued under the provisions of this act, shall be for sums not less than fifty dollars; they shall be signed, countersigned, and issued in the same manner, provided for the issuing of county orders.

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Sec. 5. It shall be the duty of the County Treasurer, upon taking up County orders, for the purposes in this act mentioned, to keep a record of the same, to cancel said orders, and to make a report thereof to the Board of Commissioners, at each regular meeting of said Board.

Sec. 6. That no Commissioner or Treasurer of this Territory, directly or indirectly, shall as a contractor, be concerned in any contract or work to be done, or material to be furnished for the county under a penalty of not less than three hundred dollars, to be recovered by civil action, for the use of the county; and such Commissioner or treasurer shall, moreover, forfeit any compensation they were to receive on such contract, and they shall be disqualified from holding office in this Territory, anything in the same to the contrary notwithstanding.

Sec 7. This act to take effect and be in force from and after its passage.

Approved, April 10th, 1866.

CHAPTER XVIII.

AN ACT to amend an act entitled Quartz Mining law.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. That after the word "claims," in line twelve of section five, strike out all of said section.

Sec. 2. And that all acts, and parts of acts inconsistent with this act, be, and the same are hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage and approval by the Governor.

Approved, 12th, 1866.

CHAPTER XIX.

AN ACT to amend an act, entitled an act, defining the boundary lines of the Counties of Montana Territory, passed February 2nd, 1865.

Be it enacted by the Legislative Assembly of Montana Territory:

Section 1. That section five of said act, be, and the same is hereby amended, so as to read as follows, to-wit: *Be it further enacted*, that all that portion of Montana Territory embraced within the following limits, be and the same is hereby created a county known as Jefferson County, to-wit: commencing at a point where the meridian of longitude one hundred and eleven west intersects or crosses the northern boundary of Madison County, thence along said northern boundary of Madison County to meridian of longitude one hundred and twelve west, thence north along said meridian of longitude to the Bald mountain at the head of ten mile creek, thence easterly along the dividing ridge between the head waters of Grizzly and Lump gulches, thence along the dividing ridge between Dry and Holmes' gulches, to the point where the Helena road to Prickly Pear City crosses Holmes' gulch, thence on a direct line to the south side of Vermillion Butte to the mouth of Beaver Creek on the Missouri River, thence up said Missouri River to meridian of longitude one hundred and eleven west, thence south along said meridian to the place of beginning.

Sec. 2. No record shall in any way or manner become impaired or invalidated by reason of the passage of this act.

Sec. 3. This act shall take effect from and after its passage and approval.

Approved March 30th, 1666.

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CHAPTER XX.

AN ACT amendatory of an act, regulating the holding of Elections in Montana Territory, approved January 17th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That if any Judge or clerk of any election, or any person in this territory shall hereafter make any false election returns to any officer of this territory authorized to receive election returns, with the intent to practice a fraud, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than five hundred, nor more than five thousand dollars, and imprisoned in the territorial prison not less than one, nor more than five years, or both such imprisonment or fine, in the discretion of the court; and shall forever thereafter be disqualified to hold any office of honor or profit within the Territory of Montana.

Sec. 2. This act to take effect and be in force from and after its approval by the Governor.

Approved, March 30th, 1866.

CHAPTER XXI.

AN ACT to amend an act entitled an act concerning Lost Goods and Estrays.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That so much of 'an act concerning lost goods and estrays,' approved January 11th, 1865, as refers to estrays, be, and the same is hereby repealed.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 10, 1866.

CHAPTER XXII.

AN ACT to amend an act entitled "an act defining the boundary lines of counties in Montana Territory," passed at the first session of the Legislature, and defining the boundary lines of Madison County.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Section 1. That all that portion of the Territory of Montana, embraced within the following described boundaries, be, and the same is hereby declared to be the County of Madison, to-wit: Commencing at the point where the line of longitude one hundred and eleven degrees, crosses the summit of the Rocky Mountains, thence due east to the summit of the dividing ridge or range, between the waters of the Madison and Gallatin rivers, thence along said dividing ridge or range to the forty-fifth parallel of longitude, thence due south to the southern boundary of the Territory, thence along said southern boundary to the eastern boundary of Beaver Head County, on meridian of longitude, one hundred and twelve degrees, thence along said meridian of longitude north to where the same crosses the summit of the Rocky mountains, thence east to the place of beginning.

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Sec. 2. All acts or parts of acts, passed at the first Legislative assembly of the Territory of Montana, conflicting herewilh, be, and the same are hereby repealed.

Sec. 3. This act shall take effect from and after its passage and approval by the Governor.

Approved, March 28th, 1866.

CHAPTER XXIII.

AN AGT to amend an act entitled An Act securing liens to Mechanics and others.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That section first of an act entitled An Act securing liens to mechanics and others, approved December 30th, 1864, be, and the same is hereby amended so as to authorize and entitle all laborers and other persons who shall hereafter perform any labor upon, and furnish materials for any mining claim or other property, shall have a lien on the claim or other property upon which such labor shall be performed, or for which such material were furnished, for the amount or value of the labor thus performed, or materials furnished: *Provided*, that all such persons desiring such lien, shall comply with all the provisions of said act above referred to.

Sec. 2. This act to take effect and be in force from and after its passage.

Approved, April 10, 1866.

CHAPTER XXIV.

AN ACT concerning Jurors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. The County Commissioners of the county in which a term of the District Court is, or may be, authorized by law to be held, shall, at least twenty days prior to the commencement of said term of court, select the names of one hundred prersons, lawfully qualified to serve as jurors, from the county poll books on file in the county Clerk's office: *Provided*, that, that number of names are contained in such poll book; and the names of the persons so selected, after being written on separate strips of paper, shall be deposited in a box, to be provided for such purpose, and from the names so deposited, the County Commissioners shall alternately draw the names of eighteen persons, who shall be summoned as petitt jurors for the next ensuing term of such District Court.

Sec. 2. The list of names so drawn, certified to by the County Commissioners, as selected by them, shall thereupon be delivered to the clerk of the court, for which such jury may be drawn. The clerk, upon receipt of the same, shall immediately issue a *venire*, directed to the Sheriff of the county, commanding him to summon the persons so named, as petitt jurors, for such term of court; and the sheriff shall summon such named persons, at least five days prior to the commencing of such term of court,

Sec. 3. The *venire* as provided for in section two of this act, shall be returned to the clerk of such court, by the Sheriff aforesaid, at least two days before the commencement of such term of court, and such *venire*, after its return, shall be subject to the inspection of any officer, or attorney. of the court.

Sec. 4. The box containing the residue of the names of the jury list, as aforesaid, shall, after such drawing, be locked up, and with key deposited

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with the clerk of the court for which the jury is summoned, and by him safely kept for future use, by the aforesaid officer, or as further provided in this act.

Sec. 5. When at any time during a term of the court, it shall become necessary to summons other jurors than as hereinbefore provided for, the clerk shall, in open court, under the direction of the Judge thereof, from such box, draw a sufficient number of names, to constitute addditional petit jurors, during such term of court: *Provided*, in case any such jurors, so drawn, reside at a great distance from the place where the court is held, the court may, in its discretion, dispense with summoning such juror, and order another to be drawn instead thereof; and the clerk shall issue a *venire*, directed to the Sheriff, for the summoning of such persons as petit jurors, and the Sheriff shall proceed forthwith to summon the same, as such petit juror, and with all possible diligence make return with his proceedings thereon.

Sec. 6. When there is no poll book, or sufficient time is not permitted, in which to prepare and draw the list of jurors, as provided in this act, or when from any cause which may appear satisfactory to such judge, such list has not been prepared or drawn, or the Sheriff has not summoned such jurors, or the names selected as such jurors, placed in such box, be exhausted, it shall be lawful for such Judge and Sheriff to prepare a list of the names of a sufficient number of persons, competent to serve as petit jurors, and deposit such names in a box, and, at any time during the term of the court, when a jury shall be required, names of persons shall be drawn therefrom by the clerk, as provided in section five of this act; and, from time to time, other names may be selected, and placed in such box, and drawn therefrom as hereinbefore provided for, and summoned as such petit jurors: Provided, That in the selection of names to be deposited in such box, the name of no person from among the by-standers at such court, shall be chosen and selected.

Sec. 7. It shall be the duty of the Board of County Commissioners of the county, at least twenty days prior to the assembling of a court authorized by law, to inquire into public affairs, by the intervention of a grand jury, to select the names of sixteen persons eligible to serve as jurors, and upon a *venire* being issued by the clerk of such court, the Sheriff shall, at least five days prior to the meeting of the court, summon said persons to appear on the first day of the next term, and from such pannel, the court shall select twelve persons, who shall constitute such grand jury.

Sec. 8. When from any cause on the meeting of, or during the term of a court, authorized by law, to enquire into public offenses, by the intervention of a grand jury, and a grand jury is wanted, and there is not a sufficient number of jurors present, or those summoned have been discharged, a sufficient number to complete such grand jury, or constitute a new grand jury, as the case may be, shall be selected and summoned in the same manner as prescribed in section six of this act, for the selection of petit jurors.

Sec. 9. Any person who is a qualified voter in this Territory, and a *bona fide* resident of the county, shall be competent to serve as a grand or petit juror.

Sec. 10. The following persons shall be exempted from serving as grand or petit jurors, viz: All priests or ministers of the Gospel, attorneys and councellors at law, practicing physicians, all county, township or Territorial officers, editors, and regularly enrolled firemen, in active service, not exceeding sixty-five in number to each company, and all idiots and insane persons.

Sec 11. Any person summoned, as aforesaid, to serve as a juror, who shall fail to attend, unless excused by the court, shall be fined in any sum

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not exceeding fifty dollars, at the discretion of the court, and be imprisoned in the county jail until such fine is paid.

Sec. 12. This act to take effect, and be in force from and after its passage and approval by the Governor.

Approved, April 5th, 1866.

CHAPTER XV.

AN ACT concerning Malfeasance in office.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Sec. 1. That if any Territorial, county, or township officer, holding any office, of trust or profit in this Territory, shall take or receive any fee or emolument of any kind greater than is expressly allowed and authorized by the laws of this Territory, such officer shall pay a fine of not less than one hundred dollars, nor more than five hundred dollars, to be sued for and recovered in the name of the people of the Territory of Montana, and such offiaer so offending, shall moreover forfeit and pay to the person or persons of whom such illegal fees have been taken, five times the amount so taken, together with all costs of prosecution.

Sec. 2. All fines collected under the provisions of this act, shall be paid into the treasury of the county in which the offense was committed for the support of common schools.

SEC. 3. This act to take effect and be in force from and after its passage and approval.

Approved, April 13, 1866.

CHAPTER XXVI.

AN ACT amendatory of an act entitled an act providing for the collection of the Revenue, approved February sixth, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. It shall be the duty the of tax assessor in the several counties of this territory, to assess and collect from all persons subject by the laws of this territory to pay a poll-tax, the sum of one dollar, to be assessed and collected as provided by law.

Sec. 2. All acts and parts of acts inconsistent with the provisions of this act, or eny part of the same, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage and approval.

Approved, April 12, 1866.

CHAPTER XXVII.

AN ACT to amend and act, concerning Weights and Measures; approved January 24th, 1865.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That the fourth section of the act to which this is amendatory, be, and the same is hereby amended as follows:

It shall be the duty of the board of County Commissioners of the several counties of this territory, to provide and adopt a temporary standard of weights and measures until such time as they shall be notified of the arrival and acceptance of the standard to be furnished by the government of the United States to the Treasurer as provided in said section.

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And that said board of County Commissioners shall adopt as temporary standard the same that is used in Madison county.

Sec. 2. All parts of the act to which this amendatory and inconsistent with the provisions hereof shall remain suspended in their effect and operation, until such time as the standards of weights and measures therein provided for shall be furnished to the Treasurer of this Territory and until that time this act shall remain in full force and effect, and no longer.

Sec 3. This act to take effect and be in force from and after its passage.

Approved, April 9th, 1866.

CHAPTER XXVIII.

AN ACT creating the office of Assessors, and defining their duties.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. The County Commissioners of each county, shall, on or before the fifteenth day of June, eighteen hundred and sixty-six, divide their respective counties into a convenient number of districts for the purpose of assessing the property of each county, and shall appoint for each of said districts, an assessor.

Sec. 2. That said district assessors, shall give bond, in such amount as the board of commissioners may deem proper, and shall assess all property and list all persons subject to the payment of a poll-tax within their respective districts, in accordance with the provisions an act entitled an act, providing for the collection of the revenue, approved February sixth 1865.

Sec. 3. The said assessors shall commence on the discharge of their duties, on the first day of July in each year, and complete the same on the last day of September in each year. They shall collect all poll-taxes from each person over twenty one years, and under fifty years of age, residing in their respective district.

Sec. 4. The Territorial Auditor shall issue to the board of County Commissioners of each county, printed poll-tax receipts signed by him, and take their receipt for the same. The County Commissioners shall issue said poll-tax receipts to the district assessors, and charge them with amount, and the said assessors and their sureties shall be responsible for the same. No receipt for the payment of any poll-tax, shall be of any validity, unlest the same is printed and signed by the Territorial Auditor.

Sec. 5. The District Assessors shall by liable for the payment of all taxes on property not assessed, and for all poll-taxes not collected from any person residing in their respective districts, whenever it shall appear that the assessment could have been made, or the poll-tax collected.

Sec. 6. The said Assessors shall have full power and authority, on the refusal and neglect of any person to pay his poll-tax, to seize immediately and sell to the highest bidder, at public auction, a sufficient amount of personal property belonging, and not attached to the person so refusing and neglecting to to pay the same, after giving one day's written notice of time and place of sale.

Sec. 7. The District Assessors shall make monthly reports in writing under oath to the County Treasurer, of all poll-taxes collected by them, with the name of the parties paying the same, and take duplicate receipts therefor, and file one of said receipts with the clerk of the county.

Sec. 8. The said Assessors shall render to the County Commissioners, an account under oath, of the number of full days, of eight hours each, actually engaged by them, in assessing, and shall receive therefor, six dollars per day for such service.

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Sec. 9. That if any District Assessor shall fail to pay over to the county treasurer, any money collected by him for poll-tax, he shall forfeit all right to any compensation from the county or territory, for his services as assessor, and shall be fined in a sum not less than five hundred dollars.

Sec. 10. All laws and parts of laws in conflict with the provisons of this act be, and the same are hereby repealed.

Sec. 11. This act to take effect and be in force from and after its passage and approval by the Governor.

Approved April 2d, 1866.

CHAPTER XXIX.

AN ACT Defining the Judicial Districts of this Territory, assigning the Judges, fixing the times and place of holding the Supreme and District Courts, and limiting the jurisdiction and providing for special terms and adjournments, for the appointment of Clerks, and the procuring of seals and prescribing the mode of proceedings in the District Courts.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. This Territory is hereby divided into three Judicial Districts, as follows: The first judicial district shall embrace the counties of Madison, Gallatin and Big Horn. The second judicial district shall embrace the counties of Beaver Head, Missoula and Deer Lodge. The third judicial district shall embrace the counties of Edgerton, Jefferson, Chouteau, Meagher and Muscleshell.

Sec. 2. The Hon. H. L. Hosmer, Chief Justice of the Supreme Court, is hereby assigned to the first judicial district. The Hon. L. P. Williston, associate justice of Supreme Court, is hereby assigned to the second judicial district. The Hon. L. E. Munson, associate justice of the Supreme Court, is hereby assigned to the third judicial district.

Sec. 3. There shall be a term of the Supreme Court of this Territory held at the territorial seat of government, annually, commencing on the first Monday in August, and such term may be adjourned from time to time as such Supreme Court may order and direct, by an entry made in the records of said courts.

Sec. 4. The terms of the first judicial district court, shall commence at the county seat of the respective counties, as follows: In the county of Madison, on the first Mondays of March, July and November. In the county of Gallatin, on the second Mondays of April and October. That Big Horn County be, and the same is hereby attached to Gallatin County for judicial purposes.

Sec. 5. That the terms of the second judicial district, shall commence as follows: At the County seat of Deer Lodge County on the first Mondays in June and December in each year. In Beaver Head County, on the first Mondays of May and November of each year. In Missoula County, the first Monday in July of each year.

Sec. 6. The terms of the third judicial district, shall commence at the County seats of the respective counties as follows: In the County of Edgerton, on the first Mondays of March, July and November. In Jefferson County, on the first Monday of June in each year. In the county of Meagher, on the first Mondays of May and October in each year. That the county of Chouteau be, and the same is hereby attached to Edgerton County for judicial purposes. That the county of Muscleshell be, and the same is hereby attached to Meagher county for judicial purposes.

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Sec. 7. That the first six days of every term of said district courts holden in the counties heretofore named, or so much thereof as may be necessary, shall be appropriated to the trial of cases arising in said districts respectively, under the constitution and laws of the United States.

Sec. 8. The Judge of any district court in said territory, may at his discretion, appoint special sessions thereof, to be held at the places where the stated sessions thereof are holden, or at any other place in his district, at which special session it shall be competent for said court to entertain jurisdiction of, and hear, and decide all cases, civil and criminal, at law or in equity, cases in error or on appeal, issues of law, motions in arrest of judgment, motions for new trial, and all other motions, and to award executions and other final process, and to do and transact all other business, and direct all other proceedings in all cass pending in the district court, including the trying of any cases, civil or criminal by jury in the same way, and with the same force and effect, as the same could or might be done at the stated sessions of said court; *Provided*, that the clerk of such court, shall at least twenty days before the commencement of such special session, cause the time and place for holding the same to be published for at least two successive weeks, in one or more of the newspapers in the county, or nearest to the place where the session is to be held, or if there is no newspaper published in the district, then by written, or printed notices posted at the place of holding said court, and at three other of the most public places within the district; that all process, writs and recognizances of every kind, whether respecting juries, witnesses, bail or otherwise, which relates to the cases to be tried at the special sessions, shall be considered as belonging to said session in the same manner as if they had been issued, or taken in reference thereto; that any special session may be adjourned to any time or times previous to the next regular term of the district court for said county or division, or such judicial district; that all business pending for trial, at any special court, shall at the close thereof, be considered as of course removed to the next regular term of the district court for said county or division of such judicial district.

Sec. 9. Any judge of a judicial district in this territory, may hold a term of court in any district in this territory, in case of vacancy or inability occurring through sickness, death, disqualification, resignation or absence from the district of the judge properly assigned to that particular district; and a written request from the judge of the district in which the court is to be held, or from the Governor, to be entered on the records of said court, shall be sufficient authority to any judge for holding said court, and from the time of the service of said notice upon him, he shall have full power to act as judge of said district during such absence, sickness, or disqualification, and do any act that may be necessary and proper for the holding of said court, including the appointment of a clerk, and the designation of a seal in all cases where there is no clerk or seal.

Sec. 10. Whenever it shall so happen that the judge of a district court shall not attend at the commencement of the session of said court, or at the time appointed on any adjournment thereof, to open and adjourn the said court, in person, the judge may by a written order to the clerk, adjourn the court from time to time as the case may require, to any time or times antecedent to the next stated term of said court, and all suits, actions, writs, processes, recognizances and other proceedings pending in such court shall have day, and be returnable to, and heard, tried, and determined at such adjournment, or adjournments in the same manner, and with the same effect as if the said court had been duly opened and held at the commencement of such session, or any other day appointed therefor, and all persons bound or required to appear at said court, either

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as jurymen, witnesses, parties or otherwise, shall be bound and required to attend at such adjournments accordingly; *Provided* that in such absence of the judge, the clerk may adjourn the court from day to day, without order, for any period not exceeding one week.

Sec. 11. Each judicial district shall have an appropriate seal, to be procured by the clerk thereof, under the direction of the judge. And the clerk of the Supreme Court shall procure an appropriate seal for the same under the direction of the judges thereof, or a majority of them.

Sec. 12. This act to take effect and be in force from and after its passage.

Approved, April 12th, 1866.

CHAPTER XXX.

AN ACT to amend an act entitled "An Act concerning Divorces and Alimony.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. Any person heretofore lawfully married, shall have the right to a divorce from the bonds of matrimony, any court of competent jurisdiction, without previous notice: *Provided*, it shall be made to appear upon the trial, by satisfactory legal evidence, that the person against whom the divorce is sought, had deserted the person so claiming the divorce, without just or reasonable cause, and continued said desertion without a knowledge, on the part of the appliant, of the whereabouts of the person against whom the divorce is sought, for the term of five years previous to such application.

Sec. 2. All acts and parts of acts of this Territory, repugnant to the provisions herein, be, and the same are hereby repealed.

Sec. 3. This act shall take effect and be in force from any after its passage.

Approved, April 10th, 1866.

CHAPTER XXXI.

AN ACT to amend an act entitled "An Act relating to Counties and County Officers.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Sec. 1. That so much of the act entitled an act relating to county and county officers, of section eighteen of said act, be, and the same is hereby repealed, and in lieu thereof the following shall be substituted. The Board of county Commissioners shall not set off or organize any new township, unless a petition be first presented to the Board, signed by at least twelve residents therein.

Sec. 2. That so much of the act entitled an act, relating to county, and county officers of section nineteen of said act, be, and the same is hereby repealed, and in lieu thereof, the following shall be substituted: The Board of county Commissioners shall order and change the townships' organization of their county, so as to agree with the standard fixed in the preceding sections in respect to the Territory and population, if such change be desired by the citizens of the county by a petition to said Board of at least fifty legal voters.

Sec. 3. That the said county Commissioners of the several counties, in all cases where any county commissioners shall allow any county warrants

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in violation of the provisions of section twenty-three of the act entitled "an Act relating to county and county offiers," and in all cases where the said county Commissioners shall knowingly or corruptly allow or cause to be allowed or issued any county warrant in case where they are allowing the same is not expressly authorized by law, such county commissioners shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than one thousand dollars, or more than three thousand dollars, and imprisonment in the county jail not less than one year.

Sec. 4. This act to take effect, and be in force from and after its passage.

Approved, April 6th, 1866.

CHAPTER XXXII.

AN ACT creating certain offices in the Territory of Montana, providing for the manner of their election, declaring to whom resignations shall be made, when the office shall be deemed vacant, and the manner of filling vacancies.

Be it enacted by the Legislative Assembly of the Territory of Montana:

That there shall be elected, or appointed, as hereinafter declared, the following officers, to-wit: *First*, one Territorial Treasurer; *Second*, one Territorial Auditor, who shall be *ex-officio* Librarian; *Third*, one Territorial Superintendent of Public Instruction; *Fourth*, one Delegate to Congress; *Fifth*, members of the Council; *Sixth*, members of the House of Representatives; *Seventh*, one District Attorney for each Judicial District.

Sec. 2. One Delegate to Congress shall be elected by the qualified voters of the Territory, every two years. Members of the Council and House of Representatives shall be elected by the qualified voters of their respective districts.

Sec. 3. Territorial Treasurer, Territorial Auditor, and Territorial Superintendent of Public Instruction, shall be elected by the qualified voters of the Territory, and be commissioned by the Governor, and shall hold their offices for the term of two years, and until their successors be elected and qualified; and the territorial Auditor and Treasurer shall keep their offices at the seat of government: *Provided*, that the territorial Treasurer, Auditor, and Superintendent of Public Instruction, now holding by appointment from the Acting-Governor, and which appointments have been approved by the Legislative Council of this territory shall hold and discharge the duties of their respective offices, until the general election in the year eighteen hundred and sixty-seven, at which time, and thereafter every two years, said officers shall be elected by the people, and provided further, that said officers shall not be removed from their offices except on the existence of one or more of the causes hereinafter set forth.

Sec. 4. Members of the Council shall hold their offices for the term of two years, unless otherwise provided by law.

Sec. 5. Members of the House of Representatives shall hold their offices for the term of one year, unless otherwise provided by law.

Sec. 6. District attorneys, in the several Judicial Districts, shall be elected by the qualified electors in the respective districts, and commissioned by the Governor, and shall hold their respective offices for the term of two years, and until their successors be elected and qualified: *Provided*, that the persons in the several Judicial Districts of this Territory, who

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received a majority of the votes cast in their respective districts, for the office of District Attorney, at the September election, A. D., eighteen hundred and sixty-five, (1865,) shall, immediately after the passage of this act, be commissioned by the Govenror, and shall hold their offices, and discharge the duties thereof, until the general election, in the year one thousand eight hundred and sixty-seven, at which time, and thereafter every two years, said offices shall be filled by the qualified electors of the several judicial districts; *and provided, further*, that said officers so appointed shall not be removed from their offices, except on the existence of one or more of the causes hereinafter set forth.

Sec. 7. Notaries Public may may be appointed by the Governor, who shall hold their offices for the term of two years, unless sooner removed by the Governor, for cause published and filed, in the office of the Secretary of the Territory.

Sec. 8. Resignations shall be made as follows: *First*, By Territorial and District officers to the Governor. *Second*, County officers to the County Commissioners in their respective counties. *Third*, By all other officers holding their office by appointment, to the body, board, or officer that appointed.

Sec. 9. Every office shall become vacant upon the happening of either of the following events, before the expiration of the term of such office: *First*, The death of the incumbent; *Second*, His resignation; *Third*, His removal by law; *Fourth*, His ceasing to be a citizen of the Territory, District, County, or precinct for which he shall have been elected or appointed, or within which the duties of his office are to be discharged; *Fifth*, Conviction of any infamous crime, or of any offiense involving a violation of his official oath; *Sixth*, Refusal or neglect to take his oath of office or to give or renew his official bond, within the time prescribed by law; *Seventh*, The decision of a competent tribunal, declaring void his election or appointment.

Sec. 10. The Governor is hereby authorized to declare vacant the office of every officer, required by law to execute an official bond, whenever a judgment shall be obtained against such officer, for a breach of the conditions of such bond.

Sec. 11. When a vacancy shall occur, at any time, in the office of Territorial Treasurer, Auditor, Superintendent of Public Instruction, or District Attorney, in any Judicial District, the Governor shall appoint some suitable and competent person to perform the duties of such office, until the next general election.

Sec. 12. When a vacancy shall occur in any county or precinct office, the County Commissioners of the county where such vacancy shall occur, shall appoint some suitable and competent person to perform the duties thereof, until the next general election, at which time such vacancy shall be filled by the people.

Sec. 13. Every person appointed in pursuance of either of the last two preceding sections, shall, after taking the oath prescribed, and filing the requisite bond, if any be required by law, continue to perform the duties of the office to which he shall be appointed, until such vacancy be regularly filled, at the next general election thereafter.

Sec. 14. This act shall take effect and be in force from and after its passage.

Approved, April 9, 1866.

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CHAPTER XXXIII.

AN ACT to prevent pasturing stock on winter grass lands in Deer Lodge County, Montana Territory.

Be it enacted by the Legislative Assembly of the Territory of Montana, as follows:

Section 1. That the County Commissioners of Deer Lodge County Montana Territory, have the right and authority to regulate and define what shall be winter grass land, and what shall be summer grass land, in said Deer Lodge County.

Sec. 2. That all persons be, and they are hereby prohibited from keeping or herding stock of any kind, on what is decided to be winter grass land, unless owned by the parties so pasturing, from the first day June untill the first day of November, except work or riding animals, milk cows and calves.

Sec. 3. That if any person, or persons, shall neglect or refuse to remove any stock of any kind, except as herein before provided, when notified so to do by the County Commissioners under this act, the county commissioners may cause the same to removed at the expense of the owner of the same, and may cause such party to be fined in a sum not exceeding fifty cents for each day any of the stock remains on what is decided to be winter grass land.

Sec. 4. That all money arising, under the provisions of this act, from the collection of fines, pe paid into the County Treasury for the benefit of the poor.

Sec. 5. This act shall only be applicable to Deer Lodge County.

Sec. 6. This act to take effect and be in force from and after its prssage.

Approved April 12th, 1866.

CHAPTER XXXIV.

AN ACT defining the acts and duties of County Surveyors.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. That each County surveyor, before entering upon the duties of his office, shall take the oath as prescribed by law, and give bond in the sum of two thousand dollars, or such further sum as the county commissioners of his county may require.

Sec. 2. The County Surveyor shall have authority to administer oaths to his chainman, and other employees, necessary, requiring the impartial performance of their duties.

Sec. 3. The County Surveyors may appoint such number of deputies as he may think proper, who shall severally take the oath prescribed by law, and for the faithful performance of their duty he shall be responsible.

Sec. 4. No survey or re-survey hereafter made by any person except the County Surveyor, or his deputy, shall be considered evidence in any court within this territory, except such surveys as are by the authority of the proper court, or judge in vacation, or of the United States, or by mutual consent of all parties interested.

Sec. 5. When it shall appear that the county surveyor is interested in any tract of land, the title of which is in dispute before a court, or judge in vacation, and a survey of which is necessary, the court shall direct the survey to be made by some capable and disinterested person, who shall be

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authorized to administer oath in the same manner as the county surveyor is directed to do, and shall return such survey, on oath or affirmation, and shall receieve for his service, the same fees as the county surveyor would be entitled to for similar services.

Sec. 6. During the vacancy in the office of county surveyor of any county, the board of county commissioners of such county, may appoint some person to perform the duties of surveyor, until such vacancy shall be filled at the next general election ensuing.

Sec. 7. It shall be the duty of said surveyor by himself, or one of his deputies, to execute any survey that may be required, by order of any court, or judge in vacation, or upon application of any individual or corporation.

Sec. 8. It shall be the duty of the county surveyor to keep a true and correct record of all surveys made by him, or his deputies, in a book to be provided by the county commissioners for that purpose, which shall be transmitted to his successor in office, and shall be open for public inspection at all times. He shall also number such surveys progressively, and shall preserve a copy of the field notes, and calculations of each survey, endorsing thereon its proper number, a copy of which, and also a fair and acurate plat, together with a certificate of survey, shall be furnished by him to any person requiring the same, upon payment of the fees allowed by law. And he shall give certified copies of all such records and official papers in his office, which record and copies, thus certified, shall be received in all courts of this territory, as *prima facie* evidence of the facts therein stated.

Sec. 9. Any person or persons owning or claiming any lands which are divided by county lines, and wishing to have the same surveyed, may apply to the surveyor of any county in which any part of such land is situated, and on such application being made, the surveyor is authorized and required to make the survey, which shall be as valid as though such lands were situated entirely within the county for which such surveyor was chosen.

Sec. 10. When lands, the titles of which is in dispute, before any court, which may be divided by a county line, the court or judge in vacation, making an order of survey, may direct the order to the surveyor of any county in which any part of such lands are situated.

Sec. 11. In all surveys the courses shall be expressed according to the time meridian, and the variation of the magnetic meridian from the true meridian shall be expressed in the notes, and on the plat, with the year, month and day of the survey. If a party for whom a survey is made, does not furnish the necessary chainman, and laborers, the county surveyor, or his deputy, may employ the necessary assistance required in making the survey.

Sec. 12. Any county surveyor, upon his fees being presented, who shall fail or refuse to perform any of the duties required of him by this act, shall be fined in a sum not less than one hundred nor more than one thousand dollars.

Sec. 13. This act to take effect and be in force from and after its passage.

Approved, April 5th, 1866.

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CHAPTER XXXV.

AN ACT to amend an act entitled "An act to Incorporate Virginia City, approved 30th of December, 1864." and to repeal certain parts of said act.

Be it enacted by the Legislative Assembly of the Territory of Montana.

Sec. 1. That the following officers created by the first section, article four, of said act, be, and the same are hereby repealed and declared void, to-wit: The office of City Clerk, the office of city Assessor, the office of street Commissioner. That from and after the passage of this act, the city Attorney shall be, by virtue of his office, city clerk. That from and after the passage of this act, the city Treasurer shall, by virtue of his said office, perform all the duties of city Collector for which services they shall receive no compensation out of the city treasury.

Sec. 2. That section one, of article four of the act to which this is amendatory, be, and the same is hereby amended so as to read as follows: On the first Monday in February, 1867, an election shall be held in said city for one Mayor for the city, and two Aldermen for each Ward, and forever thereafter, on the first Monday in February, in each year, there shall be an election for one Mayor, and two Aldermen for each Ward: Provided, special elections to fill vacancies, and for other purposes may be held at any time which the city council may direct, and in case a special election shall be ordered, to elect any city officer, or upon any question affecting the city at large, it shall be lawful to open one set of polls, in some central position in said city, to be designated by the Council, at which all legally qualified electors may vote without reference to the particular Ward in which they live.

Sec. 3. No person who is not a citizen of said city, or not residing within the corporate limits thereof, shall vote at any election general or special for city or ward officers, and if any person or persons who are not residents of and not residing therein, shall at any such election vote or attempt to vote for or against any municipal or city officer therein, or shall persuade, entice or induce others to do so, knowing him or them to be non-residents of said city, the person so offending, shall on conviction, be fined in a sum not less than one thousand dollars, and be imprisoned in the county jail not less than one year.

Sec. 4. Any person residing in said city or within the corporate limits thereof, who shall vote or attempt to vote more than once, or shall persuade, entice, or attempt to persuade or entice any person to vote more than once at any poll or precinct at any election held therein, under and by virtue of the charter and by-laws, or ordinances of said city, shall, upon conviction thereof, be fined in a sum not less than one thousand dollars, and be imprisoned in the penitentiary of this Territory for a term not less than two nor more than ten years.

Sec. 5. Nothing in section (1) one of article five (5) of said act of Incorporation, or any other section or part of said act, shall ever hereafter be so construed as to authorize said city council to levy and collect in any one year by taxation or otherwise, any greater sum than six thousand dollars from the inhabitants of said city. Provided, that nothing in this section shall be so construed as to prohibiting said city, to license, regulate and collect taxes or licenses from hurdy-gurdy or dance houses, dram shops, gaming houses and houses of prostitution, in excess of said sum of six thousand dollars. Provided, that in case the city authorities shall deem it necessary to raise for any purpose, a larger sum than six thousand dollars in addition to the revenue derived from the licences on the above houses, it shall be the duty of the city council to first submit the question, (specifying for what purpose) to the vote of the tax payers of said city,

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and none but tax payers shall vote at said election, and shall cause one or more polls to be opened, at one or more central places in said city, and whenever any sum of money has been voted by said tax payers of said city, the common council shall have power to enforce the payment of the same, in any manner that may be prescribed by ordinance not repugnant to, or in violation of the city charter, or the laws of the Territory.

Sec. 6. Nothing in the act incorporating said city or this amendment thereto, shall be so construed as to authorize the city council, or any authority under this charter to impose any tax or license, upon any freight or freighters of groceries, and provisions, or their wagons or teams, or the loading thereof, nor shall they impose any license or tax whatever, upon any person vending, selling or in any way disposing of within the city limits, any vegetables, breadstuffs, or any products of any farmer or dairyman in this Territory, and all power conferred on said city or the common council thereof to tax or license the same, be and the same is hereby repealed.

Sec. 7. The police department of said city, shall in all respects be under the management and control of the common council of said city, and they shall have the exclusive power to employ and discharge at their pleasure, and regulate all police officers and persons appointed on, and performing duty on said Police: to prescribe and define their duties; nor shall any person act as a police officer in said city, or perform any of the duties of Policemen without being employed by, and receiving his authority from the city council.

Sec. 8. That from and after the passage of this act, the common Council of said city shall have the exclusive power and authority to appoint the Police Justice, and from and after the 1st Monday in February, 1867, to appoint one city Treasurer, one city Marshal, and one city Attorney, and to fill all vacancies in said offices, and the Police Justice or Magistrate and other officers so appointed shall have all the powers, jurisdiction and authority conferred upon said officers by the act incorporating said city, or any ordinance thereunder, and all of said act of incorporation, or parts thereof, authorizing an election of said officers by the votes of said city, be and the same is hereby repealed.

Sec. 9. All acts and parts of acts, inconsistent with the provisions of this act, be, and the same is hereby repealed.

Sec. 10. This act to take effect and be in force from and after its passage.

Approved, April 12, 1866.

CHAPTER XXXVI.

AN ACT Concerning, Dower.

Be it enacted by the Legislative Assembly of the Territory of Montana:

Section 1. Every widow shall be endowed of the third part of all the lands whereby her husband, or any other person, to his use, was siezed of an estate of inheritance, at any time during the marriage, to which she shall not have relinquished her right of dower, in the manner prescribed by law, to hold and enjoy during her natural life. Dower in leasehold estate for a term of twenty years, or more, shall be granted and assigned as in real estate for a less term than twenty years, shall be granted and assigned as in personal property.

Sec. 2. If the husband shall have made a contract for lands, and, at the time of his decease, the consideration, in whole or in part, shall not have been paid, but after his death, the same shall be paid out of the assets

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of his estate, his widow shall be endowed of the third part of said lands, to hold and enjoy during her natural life, in the same manner as if he had been siezed of an estate of inheritance, in such lands at any time during the marriage.

Sec. 3. If the husband shall have made a contract, subsisting at the time of his death, for real estate, and paid only part of the consideration, and said real estate shall be sold after his death, under the order or judgment of a court, or by virtue of any power in such contract, or of any power or devise in the will of the husband, the widow shall be entitled to hold and enjoy, as dower, during her natural life, the third part of such real estate, as against every person, except such as may hold a lien on such real estate for the payment of the purchase money and those claiming under them.

Sec. 4. When the husband shall die, leaving a child or children, or other descendants, the widow shall be entitled, absolutely, to share in the personal estate, belonging to the husband at the time of his death, equal to the share of a child of such deceased husband, or, at her option, to one-third part of the personal estate, absolutely, in either case subject to the payment of her husband's debts.

Sec. 5. When the husband shall die without any child, or other descendants in being, capable of inheritance, his widow shall be entitled, first to all the real and personal estate, which came to the husband in right of the marriage, remaining undisposed of absolutely; second, to one half of the real and personal estate belonging to the husband at the time of his death, absolutely.

Sec. 6. When the husband shall die, leaving such child or descendants, but not by his last marriege, his widow may, in lieu of dower, elect to take, in addition to her real estate, all the personal property in possession of the husband, that came to him in right of the wife, by means of the marriage.

Sec. 7. The provisions made for the widow, in the two last sections shall be subject to the payment of the husband's debts.

Sec. 8. When the husband shall die without a child, or other descendant living, capable of inheriting, the widow shall have her election to take her dower, as provided in the first section, discharged of debts, or the provisions of the fifth section subject to debts.

Sec. 9. When a widow shall be entitled to dower, as provided by the four preceding sections of this Act, it shall be the duty of the Probate Court of the proper county, when letters, testamentary or of administraton have been granted, to cause a notice to be served on such widow, apprising her of her right, and requiring her to file her declaration within the time, and according to the provisions of the next succeeding section.

Sec. 10. Such elections shall be made by declaration, in writing, acknowledged before some officer authorized to take the acknowledgment of deeds, and file in the office of the clerk or judge of the court, in which letters, testamentary, or of administration shall have been granted, within six months after the grant of the same; otherwise she shall be endowed under the provisions of the first, second and third sections of this act.

Sec. 11. When the husband shall die, leaving a child or children, or other descendants, the widow may, in lieu of dower of the one-third part of all the lands whereof her husband died, or shall die, seized of any estate of inheritance, to hold or enjoy during her natural life, elect to be endowed absolutely in a share of such lands, equal to the share of a child of such deceased husband. The provisions of this section shall be subject to the payment of her husband's debts.

Sec. 12. The election provided in the last section shall be made by declaration in writing, acknowledged before some officer authorized to take

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the acknowledgment of deeds, and file for record in the office of the recorder of the county, in which letters, testamentary and of administration shall be granted, within nine months after the grant of the same; otherwise, she shall be endowed under the provisions of the preceeding section of this act.

Sec. 13. No act, deed, or conveyance, executed or performed by the husband, without the assent of the wife, evidenced by her acknowledgment thereof, in the manner required by the law to pass the estate of married women, and no judgment or decree confessed by, or recovered against him, and no laches, default, covin or crime of the husband shall prejudice the right and interest of the wife, provided in the foregoing sections of this act.

Sec. 14. If any woman be divorced from her husband, for the fault or misconduct of such husband, she shall not therby lose her dower; but if the husband be divorced from the wife for her fault or misconduct, she shall not be endowed.

Sec. 15. If any testator shall, by will, pass any real estate to his wife, such devise shall be in lieu of dower, out of the real estate of her husband whereof he died seized, or in which he had an interest at the time of his death, unless the testator, by his will, otherwise declared.

Sec. 16. In such case, the wife shall not be endowed in any of the real estate whereof the husband died seized, or in which he had an interest at the time of his death, unless she shall, by writing, duly executed and acknowledged, as in cases of deeds for lands, and filed in the office of the court in which the will is proven and recorded, within six months after the proof of the will, not except the provisions made for her by said will.

Sec. 17. If any woman prior to, or in contemplation of marriage shall, on agreement or marriage contract with her intended husband, or other person, receive any estate, either real or personal, to take effect after the death of her husband, by way of jointure as a provision for her support during life, and expressed to be in full discharge of all her claim of dower, such shall be valid, and a bar to dower in the estate of her husband. When any lands have been, or hereafter shall be, conveyed to the husband or wife, or to any other person and their heirs, and to the use of the husband and wife, or to the use of the wife, for the jointure of the wife, every such married women, having such jointure made, shall not claim any dower in the residue of the lands of which her husband was at any time seized.

Sec. 18. If any deed of conveyance, assurance, or contract, for jointure, be made after marriage, or be made before marriage, and during the infancy of the wife, in either case the widow may, at her election, renounce her jointure, and have dower. In all cases, if the title to the estate, settled on the wife, at her jointure, shall fail, or she be evicted from, or cannot recover such estate, she shall have dower in the estate of her husband; or, if the title fail of to part only, the deficiency shall be made up of her husband's estate.

Sec. 19. When any deed, conveyance, agreement, or contract for jointure, in lieu of dower, shall, through any default, fail to be a legal bar to dower, and the widow, availing herself of such default, shall demand her dower, then the estate and interest so conveyed to such widow, shall cease and determine.

Sec. 20. If a wife voluntarily leave her husband, and go away, and continue with an adulterer, or, after being ravished, consent to the ravisher, she shall be for ever barred from having her jointure or dower, unless her husband be voluntarialy reconciled to her, and suffer her to dwell with him.

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Sec. 21. Until dower be assigned, the widow may remain in and enjoy the mansion house of her husband, and the messuages or plantation thereto belonging, without being liable to pay any rent for the same.

Sec. 22. The District courts and Probate courts of the several counties of this territory shall have full power to make partition among heirs or legatees, of all real and personal estate of any deceased, and to assign to the widow her share, in the personal and real estate, and for that purpose, they shall appoint three commissioners, to make such partition and assignment of dower, in the real and personal estate.

Sec. 23. Ten days' notice shall be given of every application for such partition and assignment to the executor or administrator, and to all the heirs and legatees interested therein, or their guardians or agents, and if any of them be non-residents of this territory, such notice shall be by eight weeks' publication in some newspaper.

Sec. 24. It shall be the duty of the commissioners to make partition as equal in kind, as the value and situation of the property will admit, and report the value of each lot to the Probate or District courts, at the next term thereof, and if the courts discover that the lots are of unequal value, they shall cause them to be made equal, by adding to each lot of inferior value, sufficient money, arising from the sale of other personal property, or from the rent of real estate, to make it equal in value to the others.

Sec. 25. In making such assignment, the court may take the necessary steps to secure the contingent rights of creditors, and the reversionary rights, and rights in remainder, of the heirs or legatees in such property.

Sec. 26. When any widow shall be entitled to dower in real estate, and she be deforced thereof, or cannot have it without suit, or if her dower be unfairly assigned, or not assigned within twelve months after the death of her husband, she may sue for, and recover the same, with damages; that is to say, the value of the whole dower to her belonging, from the time of the husband's death, (or if he died, or shall die, siezed,) or from the time of demanding dower, (if the husband was, or shall be seized, but did not, or shall not die seized,) until the day that she shall recover her dower.

Sec. 27. The widow shall have dower of real estate, although there may have been no actual possession, or recovery of possession, by the husband, in his life time, and although the same may have been held by him as joint tenant, or tenant in common, or coparcener.

Sec. 28. Any widow may file a petition in the office of the Probate or District court, of the county, wherein the real estate in which she claims her dower is situate, or if the land is divided by a county line, then in either county against any person claiming an interest in such lands, or being in possession thereof, or who shall deforce her of her dower therein, and the clerk shall thereupon issue a summons, endorsed or annexed to such petition, which shall be served as process in other civil actions; and if the defendant appear and plead, the cause shall proceed according to the course of proceedings at law. If any defendant shall not be summoned, or shall not appear, the court shall arward an order of publication, which shall notify such defendant, that unless he appear on the first day of the next succeeding term, and proceed to trial, judgment will be rendered against him by default which order shall be published in some newspaper published in this terriritory, for four weeks successively, the last insertion to be four weeks before the term, at which he shall be notified to appear, and, when so published, shall be equivalent to the service of a summons.

Sec. 29. When the lands lie in several counties, and are not severally held by different devisers or purchasers, the petition for the assignment of dower shall be had in the county in which some part of the property is situate; but if there be no such real property, then in any county in

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which any of the lands lie; and the court of such county shall have complete jurisdiction, and the whole dower of such widow may be assigned in any one or more of such counties, and out of any one or more tracts of land, if the same may be done without prejudice to the rights of any person interested therein, and such petition shall be proceeded with in like manner as provided in the preceding sections of this act.

Sec. 30. When there are several defendants, some of whom are summoned or appear, and others do not, the demandant may proceed against those summoned or appearing, without regard to the others, or may continue the cause, and take out *alias* writs, or make publication as aforesaid, to bring in the other parties.

Any person claiming title to the land whereof dower is claimed, may be made a defendant, if he appear and apply for the purpose, and proceedings shall be had thereon, in all respects as if he were originally a party duly summoned.

Sec. 31. If judgment be rendered by default, the courts shall hear the proofs and allegations of the demandant, or empannel a jury for that purpose, and if it be found, upon such proceedings, or on the trial of the issue, that the demandant is entitled to dower, the court or jury shall determine in what proportion, and the court shall thereupon render judgment that she be seized of her dower, accordingly, for and during her natural life, and that she recover the damages that may be assigned; and thereupon shall appoint three competent persons as commissioners, to assign and admeasure such dower, who, before they enter upon the discharge of their duties, shall take an oath or affimation honestly and impartially to execute the trust reposed in them respectively.

Sec. 32. The commissioners, or a majoirity of them, shall proceed to the land or other real estate, and, by actual admeasurment, ascertain and set off the widow's dower therein, according to the judgment of the court.

Sec. 33. The county surveyor of any county where any of the lands lie, if thereto required by the commissioners, shall make such survey and plats as the commissioners may direct, and the commissioners shall make full report of their proceedings, with a plat and boundaries of the land so assigned by them as dower, to the court appointing them, at the next term thereof, which report, if approved, shall be recorded among the records of the court; but if it shall not be approved, the commissioners shall again proceed, as before directed, and as often as may be necessary, until their report shall be approved, and such court or judge in vacation may at any time discharge any of the commissioners and appoint others in their stead, and may supply any vacancy which may happen by death resignation, or refusal to act, of any of the commissioners.

Sec. 34. When any report assigning dower shall be approved, the court shall empannel a jury to assess the damages, and shall render judgment for the damages assessed, if the same has not been done, and award a writ of possession, according to the report of the commissioners, and execution for the damages.

Sec. 35. If the commisssioners shall report that the land or estate is not sususceptible of a division, without great injury thereto, a jury shall be empanneled to enquire of the yearly value of the widow's dower therein; and shall assess the same accordingly.

Sec. 36. The court shall thereupon render judgment, that there be paid to such widow, as an allowance in lieu of dower, on a day therein named, the sum so assessed, as the yearly value of her dower, and the like sum on the same day, every year thereafter, during her natural life, and such jury shall, moreover, (if the same has not been before done), assess the damages which may have accrued down to the time of rendering their verdict.

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Sec. 37. No writ of summons in dower shall abate by the exception of the tenant or defendants, that the demandant that received her dower of another before her writ was sued out, unless he can show that the dower so received was in satisfaction of her dower in the lands whereof she demands dower.

Sec. 38. When any widow shall be entitled to dower in lands, or other real estate, whereof her husband died seized, or in which he had an interest at the time of his death, it shall be lawful for any heir or legatee, or the guardians of such as are minors, entitled to any interest in such lands or real estate, or the executors or administrators of the intestate, or any creditor of the widow, and, after her marriage, any creditor of her husband, or any other person having any interest in such lands, or such real estate, to apply, by petition, to the proper court, of the county wherein the principal messuage lies, or, if there be no messuage, then in any county in which any of the lands lie, to assign and admeasure such dower, giving twenty days notice in writing, of such intended application to such widow, by personal service, or by leaving a copy at her usual place of abode, with some member of the family over the age of fifteen years.

Sec. 39. Upon such application, and due proof of the service of such notice the court shall appoint three commissioners to assign and admeasure such dower, who shall take the same oath and perform like duties, and the court shall proceed in like manner therein, as hereinbefore provided, in like cases, where the widow demands dower. In proceedings under this section there shall be no judgment for damages, and the costs and charges shall be divided and apportioned among the persons concerned, according to their respective interests in the lands and real estate out of which dower shall be assigned.

Sec. 40. When a widow, having no right to demand dower, sues out a writ of dower against the guardian of any minor, and the guardian endows the widow by favor, or makes default, or by collusion, defends the plea fraudulently, whereby she is awarded her dower to the prejudice of such minor, such minor, when he shall arrive at full age, shall have an action to demand seizure, or to admeasure such dower according to law.

Sec. 41. Every person who shall not have been made a party to any action, and duly notified or summoned to appear, and shall not have appeared to any action brought by any widow for her dower, (except such as claim under any of the parties who have appeared, were summoned or notified, by title derived after commencement of such action,) shall have their action against such widow, to admeasure the dower, and all other persons shall be concluded by the proceedings under the provisions of this act.

Se. 42. When any person, not concluded as aforesaid, shall file his petition in the office of the clerk of the proper court or judge of the county in which the lands, or real estate, in which dower has been assigned, under the provisions of this act, are situate, stating that such widow was not entitled to dower in such lands or other real estate, or that her dower was unduly assigned, and claiming title to the lands so assigned, or a part thereof, the clerk or judge of the Probate, or the clerk of the district court shall issue a summons thereon, in the nature of a writ of admeasurement of dower, which shall be served on such widow as the like process in other cases; and such widow may appear and deny the title of the demandants; and put him upon proof thereof, and may show her right of dower, and that it was properly and duly assigned according to law, and have every defence which may be allowed by law in like cases, and proceedings shall be had as in ordinary cases at law.

Sec. 43. If it be found that the demandant hat not good title to the premises, or that she is entitled to dower, and the same has been assigned

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according to her rights, she shall have judgment to retain her dower, and to be quit of said action; but if it be found that the demandant hath good title, and that such widow is not entitled to dower, he shall have judgment of seizin.

Sec. 44. If, upon proof of title in the demandant, it appear that she is entitled to dower, but that the same has not been duly assigned, the court shall appoint commissioners, as in case of petition of the widow, who shall take an oath, and proceed in like manner as hereinbefore provided in the assignment of dower.

Sec. 45. The court shall proceed upon their report in the same manner, and shall have the same power to supply vacancies, and discharge commissioners and appoint others, as is provided in cases of commissioners appointed to assign dower, and when the report is approved, shall award a writ of possession accordingly, and all parties to any such action, and those claiming under them, shall be concluded thereby.

Sec. 46. When such action is brought by any guardian, his ward, when he becomes of age, shall not be bound thereby, if the judgment be obtained by collusion, but may have his action within three years after he becomes of age, and in like manner the widow shall be aided, if she be impleaded and lose her dower by default, but she shall recover her dower, if she hath right thereto, as if no proceedings had ever been had.

Sec. 47. The charge of the commissioners for their services, not exceeding five dollars per day each, and all necessary expenses, shall be taxed as other costs; and when judgment shall be for the demandant, he or she shall have judgment to recover his or her cost; and when the judgment shall be for the defendant, he shall recover his costs.

Sec. 48. In all cases of judgment for damages, or yearly allowance, in favor of any widow under the provisions of this act, execution therefor shall be awarded only against the estate in which dower shall be assigned.

Sec. 49. When a writ of possession shall not have been awarded, by reason that a division of the estate cannot be had, and a yearly allowance shall have been adjudged in lieu thereof, the court, when any such yearly allowance shall become due and be unpaid, shall award execution therefor in favor of such widow, or, if she die before the end of any year, then in favor of her executors or administrators, for all arrearages, and a just proportion of the last year's allowance, computing the time which had elapsed at the time of her death.

Sec. 50. No action brought by any widow for the recovery of her dower, shall abate by the death of either party, but if the demandant die, her husband, if she be married, or, if not, her executors or administrators may appear and prosecute the action; but no admeasurment of dower or writ of possession shall in such cases, be awarded, but he or they shall have judgment and execution only for the damages occasioned by the deforcement.

Sec. 51. If she die before any action brought, her executors and administrators may maintain an action in which no admeasurement shall be made, or writ of possession awarded, but upon the issue found, the court or jury shall assess the damages, according to this act; and where one or more of the defendants die, the action shall proceed against the survivors; and if all the defendants die, the action may be moved against the executors and administrators, as in other cases; but any other person claiming title to the lands, may be made a party, by his voluntary appearing to such action, as a defendant.

Sec. 52. No action against any widow for admeasurement of dower, shall abate by the the death of the plaintiff or demandant; but his heir,

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legatee, and the gurdian of such as are minors, may appear and prosecute such action.

Sec. 53. If either party shall feel agrieved by the final judgment of the court, he may have an appeal, or prosecute a writ of error, in the same manner as in other actions at law: but no appeal shall operate as a *supercedeas*, unless the applicant or plaintiff in error, shall enter into recognance as required by law.

Sec. 54. When the judgment shall be, that the widow be seized of her dower, the appellant shall become bound in such recognance to pay, not only all damages which may be adjudged, but all which may be adjudged to such widow in the action thereafter, and when any such judgment shall be affirmed there shall be a writ to enquire of the *mesne* profits and damages, by waste done after the first judgment.

Sec. 55. The husband of any insane woman, resident in this Territory, and owning real estate therein, may apply, by petition, to the district or probate court of the county in which the wife of the petitioner shall have a *bona fide* residence for at least one month next preceding the time of filing such petition, for leave to sell all, or any part of, the real estate of which he is possessed within the limits of this Territory, discharged and unencumbered, of the right of dower of his wife, which petition shall set forth the insanity of his wife, together with a description of the land proposed to be sold; and the court shall thereupon appoint a committee of six competent men, who shall under oath, enquire into the facts set forth in said petition, and the said committee shall hear testimony to be produced by the guardian *ad litem* of the wife, by the court to be appointed for that purpose; and the said committee shall, at anytime of such court, make a report, in writing, signed dy all the members of said committee, of the result of their investigation.

Sec. 56. Should the committee, appointed as aforesaid, unanimously report, that such wife is, in their opinion, permanently insane, the said court shall appoint a committee of three judicious freeholders, to appraise the real estate mentioned in the origional petition, whether the same be in one or several of the counties of this Territory, and who shall report in writing, signed by all the committee, the value of each tract, respectively.

Sec. 57. On the filing of such report by the committee last aforesaid, the court may assign to such wife, to be by her held during life, such proportion of the real estate set forth in said petition, as shall, to said court, seem just and proper for her support; or the county may order that the petitioner enter into bond, with approved security, payable to the people of the Territory of Montana, conditioned for the proper maintenance of said wife during her natural life, in such sum or sums, and payable at such time or times, as said court may direct; or the court may, in its discretion, order the the petioner to invest an amount, to be by them fixed upon, in the stock of such company, or companies, or stock created by the laws of this Territory, as by said court may be designated; the profits and dividends arising from such investments to be applied to the support and maintenance of the wife of the petitioner; and, upon the petitioner complying with the order of said court, he shall be, and hereby is, authorized to sell all the real property he is, or thereafter may be possessed of, free and unencumbered of the right of dower of his said wife.

Sec. 58. In case the petitioner shall give bond, as required by this act, and shall fail, at any time, to pay the sum or sums of money for the maintenance of his wife, at the time or times directed by the court, the court shall, upon being satisfied of such facts, and after five days' notice shall have been given to the obligors in such bond, or either of them, render judgment against such of the obligors as may have been notified, for the

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sum or sums of money unpaid, together with twenty *per cent* damages thereon, from the date of such failure, till the rendition of judgment.

Sec. 59. The court shall, for the same cause, and upon like notice, that probate courts are authorized to require administrators and executors to give new or additional bond, conditioned as above required in the first instance, and, upon a failure to do so within the time appointed by the court, the court shall have power to revoke and amend the order made in pursuance of section fifty-seven of this act, and thereafter the wife shall be restored to every right of dower in the real property which the petitioner shall then own, or may thereafter acquire, with like effect as if no such order had been made.

Sec. 60. All acts and parts of acts, conflicting with this act, are hereby repealed.

Sec. 61. *Be it further enacted.* That this act shall take effect and be in force from and after its passage.

A. E. MAYHEW,
Speaker of the House of Representatives.
ANSON S. POTTER,
President of the Council.

March 21st, 1866.

Executive Office, Virginia City, Montana Territory.

Approved, March 22d, 1866.

THOMAS FRANCIS MEAGHER,
Acting-Governor Montana Territory.

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JOINT MEMORIAL *to the Congress of the United States.*

The Council of the Legislative Assembly of Montana, the House concurring. Your memorialists would represent, that they have learned a movement has been put in motion, before the Senate and House of Representatives of the Congress of the United States, to divide the Territory of Montana, cutting off a portion known as the Bitter Root and Blackfoot country. Your memorialists, the Council and House of the Legislative Assembly of Montana, with a full knowledge of the natural and proper boundary lines now established for our Territory and urged by the earnest solicitations of every person residing in said Bitter Root and Blackfoot country, to oppose said movement, would most respectfully and earnestly potest against such division of this Territory, the present lines on the north and west boundary being upon a natural barrier, running on the summit of the Bitter Root Mountains to the one hundred and sixteenth meridian of longitude, thence north, to the British line. Your memorialists request and instruct our Delegate to Congress, Col. Sam. McLean, to present the subject to the House of Representatives of the Congress of the United States, to urge with force and energy this our just protest against said division.

Concurred in, March 24, 1866.

JOINT MEMORIAL *to the Congress of the United States.*

The Council of the Legislative Assembly, of the Territory, the House concurring, your memorialist would represent, they have learned from reliable information that an appropropriation was made by Congress for a Territorial Library for Montana, and that said library has been been purchased, and put in charge of a Government official, appointed for this Territory, that although said official has arrived in this Territory, and departed from it again, the said Library has not come hand.

Therefore, your memorialists pray the Congress to appropriate a sufficient sum for a Territorial Library for Montana, to be purchased and placed in charge of some discreet and proper person, to be sent in his charge, to the Librarian of the Territory, where it is, at this time, much needed.

Your memorialists instruct the Delegate from this Territory, to present the subject to Congress, for the securing of said object; and your memorialists will ever pray.

Concurred in, March 24, 1866.

JOINT MEMORIAL.

Resolved, By the House of Representatives of the Territory of Montana, the Council concurring that the following remonstrance be forwarded to President of the Senate and Speaker of the House of Representatives of the United States; also a copy to our representative, to wit:

[Remonstrance of the Legislative Assembly of Montana Territory, against the passage of an act for the survey and sale of the Mineral lands of the United States.]

To the Senate and House of Representatives of the United States.

Your remonstrants hereby represent unto your Honorable body, that the inhabitants, of this Territory have learned with feelings of deep regret and serious alarm, that an effort is being made for the passage of an act authorizing a survey and sale of the mineral lands of the United

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States, the inevitable tendency of which, would, in the opinion of your remonstrants, work great injustice to the first discoverers of the rich mineral resources of this Territory, and nearly paralize future efforts for further developments.

Your remonstrants further humbly represent unto your Honorable body, that the labor of the producer is the only sure foundation upon which nations as well as individuals can safely rely for thrift and prosperity, and that in the opinion of your remonstrants, every legitimate means should be used by those having authority to encourage and increase it in all its branches. That to the daring adventurers or first settlers, who have endured untold privations and hardships and in many instances sacrificed life itself, are the people of the nation chiefly indebted for the discovery of the inexhaustible mineral resources of the country, and for the opening up of these great avenues to wealth. that will eventually prove to be the richest in the known world; and your remonstrants are finally of the opinion, that those adventurous pioneers would have hesitated long, before they would have periled their lives in searching for those hidden treasures, had they not had the confidence to believe that the same rewards awaited them that hitherto were accorded by the government to pineers to other regions of the country.

Your remonstrants further humbly represent, that the prospecters and miners of this Territory, as a class, are poor and with very litle if any ready means. But few in every placer mining camp are successful; and in the case of the quartz prospector, every little pittance he gets for extra claims on every lode discovered by him, is exhausted in supplies and necessaries for further prospecting and further discoveries and developments. That although a few prospectors may have a large amount of undeveloded quartz property, still, without the means of development, that property is wholy unavailable to him; but which if fully developed, might prove of great value. Thus far has the prospector advanced in this Territory, and without the aid of capital, he is unable to determine whether his labor and means have been expended for something or nothing.

Your remonstrants further humbly represent unto your Honorable body, that there has been discovered and recorded in this Territory, about six thousand lodes that contain from eleven to one hundred claims (one and two hundred feet eech) on each lode and that run in detached belts or ranges; that the owners or preemptors of each lode, range from two to one hundred or more, that in many localities within the limits of a square containing twenty acres, there will occur as many different lodes of great aggregate value, and from one hundred to three hundred claimants or preemptors under the previous and present laws of this Territory. That the present owners by right of discovery, preemption or by purchase, are people of the poorer classes, without proper available means; and that in case a single lode in any locality should be surveyed and offered for sale as against the capitalist or speculator, the poor discoverer, preemptor or purchaser would be entirely powerless, and at the mercy of such capitalist or speculator and in imminent danger of seeing the fruits of his toil and labor irrideemably snatched from his grasp, to swell the already overflowing coffers of the millionaire.

Your remonstrants therefore in view of the premises, do most earnestly entreat your Honorable body. to continue and encourage the system hitherto adopted by the government, granting to each pioneer the fruits of his labor, as a just reward for his persevereance and daring in bringing to light the hidden treasures of the country, and hereby inducing capitalists to aid him in finding that for which he has sacrificed and periled so much honestly to obtain. And your remonstrants will evev pray, &c.

Concurred in, April 15th, 1866.

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JOINT MEMORIAL *to the Honorable the Senate and House of Representatives of the United States in Congress assembled.*

Your memorialists, the Legislative Assembly of the Territory of Montana, now in session, would respectfully represent that the Territory of Montana have now within her borders a large and thrifty population, and that within twelve months from this time, in the opinion of your memorialists, she will have a larger population than any of the territories yet admitted into the Union as States, her mineral wealth, is unsurpassed by any territory or State in the Union, and her agricultural resources are ample in extent and richness when brought under cultivation, to support millions of inhabitants. She will be hereafter, as she has been heretofore, entirely self-maintaining, with seasons ample for agricultural purposes, a pure air, and salubrious climate, broad, beautiful and fertile valleys coursed by living waters, and mountains covered with valuable forests of pine, and inexhaustable in her precious metals. Your memorialists are of the opinion that Montana will continue to afford the most ample encouragements to an abundant and healthy emigration. The history of the past has taught the people of Montana Territory, that a territorial government is inadequate to the protection of her people, and we are of the opinion that it will be to the interest of the United States, as well as to the people of the territory to organize a permanent and liberal State Government, Republican in its form, under a constitution securing to us all the blessings of life, liberty and prosperity, as soon as the same can fairly and lawfully be accomplished. Your memorialists would therefore respectfully ask your Honorable body to pass an act authorizing and enabling the inhabitants of Montana Territory to call a convention to form a State Constitution, preparatory to her admission into the Union, on terms of perfect equality with the other States.

Concurred in, April 13, 1866.

Approved April 14, 1866.

JOINT MEMORIAL *to the Congress of the United States.*

The Council of the Legislative Assembly, of the Territory, the House concurring, your memorialist would represent, they have learned from reliable information that an appropropriation was made by Congress for a Territorial Library for Montana, and that said library has been been purchased, and put in charge of a Government official, appointed for this Territory, that although said official has arrived in this Territory, and departed from it again, the said Library has not come to hand.

Therefore, your memorialists pray the Congress to appropriate a sufficient sum for a Territorial Library for Montana, to be purchased and placed in charge of some discreet and proper person, to be sent in his charge, to the Librarian of the Territory, where it is, at this time, much needed.

Your memorialists instruct the Delegate from this Territory, to present the subject to Congress, for the securing of said object; and your memorialists will ever pray.

Concurred in, March 24, 1866.

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JOINT MEMORIAL *to the Honorable the Senate and House of Representatives of the United States of America, in Congress assembled.*

Your memorialists, the Legislative Assembly of the Territory of Montana, respectfully represent, that,

WHEREAS, the inexhaustable and extensive mineral fields of Montana Territory, developed by the patient labor and toil of our miners, unsurpassed in richness and extent by those of any other Territory or State in the Union, that will require the continued labor of countless ages to exhaust and,

WHEREAS, from our isolated position from the ballance of the United States, bounded on the North by the British Possessions, cut off from Idaho and the other Territories of the western slope by immense chains of mountains, and from the vast quantities of snow that fall thereon, all intercourse and communication from that section is rendered wholely impracticable, for at least six months in the year. And,

WHEREAS, the necessary delay, expense and danger attending the transportation of our precious metals to the Eastern States, for the purpose of coinage, would be entirely removed by the construction of a *United States Branch Mint* in this Territory, would lead to a more rapid and full development of the mineral resources of our Territory, of incalcuable benefit to our citizens, as well as an immense source of revenue to the United States, estimating as we do, the products of our mines for the next, and succeeding years at between *forty and sixty millions per annum*

Your memorialist, therefore, pray that a *United States Branch Mint* be located in our Territory, at as early a period as practicable. Your memorialists would further state that ours has ever been a self-reliant and self-sustaining people, without aid, assistance or protection from the government. We have explored, settled and developed the immense wealth and resources of this part of our common country, and added more to the material wealth and prosperity of the Union than any other people ever did, in the same length of time, We ask the above as a simple act of justice to our people, and with the full assurance that our government has not yet forgotten us.

Approved, April 13th, 1866. Concurred in, April 13th, 1866.

No. 1—JOINT RESOLUTION.

[Asking Congress to amend the Organic Act, so as to increase the pay of the Executive, Secretary and Judicial Officers, as also the per diem of the Members of the Legislative Assembly of the Territory of Montana.]

WHEREAS, owing to the high prices of living in this Territory, the Executive, Secretary and Judicial officers, as also the Members of the Legislative Assembly, cannot perform the functions of their respective offices, without being subject necessarily to many deprivations, because of the insufficiency of their salaries and per diem. That the salaries and per diem as fixed by the Organic Act, are scarcely adequate to pay the prices of living, to say nothing of their time.

Resolved by the Legislative Assembly of the Territory of Montana, That Congress is hereby earnestly requested, at the earliest possible period, to amend the Organic Act of the Territory so as to increase the salaries of the Executive, Secretary and Judicial officers, as also the per diem of the members of the Legislative Assembly.

That His Excellency, Acting-Governor Thomas Francis Meagher, be respectfully requested to transmit copies of these resolutions, to the Speaker of the House of Representatives and President of the Senate, and that our Delegate in Congress be respectfully requested to use his best efforts in securing the passage of such amendments.

Concurred in, April 4, 1866.

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No. 2—Joint Resolution.

Resolved, By the Council, the House concurring, that we, as a Legislative body, return our sincere thanks to General T. F. Meagher, Acting-Governor of our Territory, for the able, prompt and impartial manner in which he has discharged the delicate and responsible duties incumbent upon him, during our present session; That in our retirement to private life, we will continue to cherish that high appreciation of his character as a gentleman, soldier and Statesman, that he so justly deserves.

Concurred in, April 13th, 1866.

No. 3—Joint Resolution.

[In relation to the distribution of the laws]

Be it resolved by the Council, the House of Representatives concurring, and the Governor approving, That the Secretary of the Territory of Montana be, and is hereby authorized and required to furnish the Territorial and county officers one copy each, of all the acts of the Legislative Assembly of this Territory; also, that he be, and is hereby authorized and required to furnish the members of the several Legislative Assemblies, the Secretary and Chief Clerk thereof, with two copies each of all acts, and two copies each of the Journals of both Houses of said Legislative Assemblies; also assistant clerk, engrossing clerk and enrolling clerk, and sergeant at arms with one copy each of all the acts and the Journals of both Houses of said Legislative Assemblies, as soon as the same are published and returned to him.

Concurred in, April 7, 1866.

No. 4—Joint Resolution.

Resolved, By the Council, the House concurring, that the Secretary of the Territory be, and he is hereby respectfully requested to have published with the laws of this Territory, all the Joint Memorials to Congress, passed by the two Houses, at the present session.

Concurred in, April 13, 1866.

No. 5—Joint Resolution.

Resolved, By the Council, the House concurring, of the Legislative Assembly of the Territory of Montana, that the Public Printer be, and he is hereby authorized, and it shall be his duty to print two hundred copies of the law, known as the "Act relating to County and County Officers," and amendments hat shall be made thereto, as this session, passed at the first Legislative Assembly of the Territory of Montana, and approved by the Governor; and it shall be the duty of the Secretary of the Territory of Montana, to distribute said copies, thus printed, among the various county officers of this Territory.

Concurred in, March 29, 1866.

No. 6—Joint Resolution.

Resolved, By the House of Representatives, the Council concurring, that a joint committee of five members of the Legislative Assembly (two from the Council and three from the House,) be appointed to confer together, and prepare and report bills regulating the times of holding the District and Probate courts in the different counties; also defining the person and duties of the same, also regulating the fees and compensation of county officers, and also in relation to Grand and Petit Jurors.

Concurred in, March 30, 1866

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No. 7—Joint Resolution.

Resolved, By the House, the Council concurring, that the Secretary of the Territory be, and he is hereby respectively requested to publish the general laws passed at this session of the Legislative Assembly, in one or more public newspapers published in this Territory.

Concurred in, April 11th, 1866.

No. 8—Joint Resolution.

Resolved By, the House of Representatives, the Council concurring, That each chief clerk, assistant clerk, engrossing clerk, enrolling clerk, be allowed ten dollars per day, and each sergeant at arms, be allowed eight dollars per day, and each door keeper for the Council, be allowed eight dollars per day, and each fireman be allowed ten dollars per day, and each page, be allowed five dollars per day from the twenty-sixth day of March, 1866, to the end of the session. That the chaplain for the House be allowed three dollars per day from the commencement of the session. All these several sums to be paid out of any funds in the Territorial Treasury, and not otherwise appropriated by law; and it shall be the duty of the Territorial Auditor to issue his warrants on the Territorial Treasurer for said amounts, in favor of the parties above designated.

Concurred in, April 11, 1866.

No. 9—Joint Resolution.

[To request the Governor to furnish certain Election Returns.]

Resolved by the House of Representatives, and Council concurring, that the Secretary now acting-Governor of the Territory of Montana, is hereby requested to furnish to both houses of the Legislative Assembly, an abstract of all of the votes cast in the several counties of said Territory, for the delegates for Congress at the last general election, on the fourth day of September A D. 1865.

And be it further resolved, that the acting-Governor is hereby requested to furnish a like abstract, of all the votes polled in the several counties in the said Territory at the last general election.

Concurred in.

No. 10—Joint Resolution.

Resolved, By the Council, the House concurring, that the Secretary of the Territory be requested to have printed two hundred and fifty copies of all laws of a general character, passed at the present session of the Legislature, and that he cause the same to be equally distributed among the officers of the several counties, of the Territory, as soon thereafter as practicable.

Concurred in, April 2, 1856.

No. 11—Joint Resolution.

Resolved, By the Council, the House concurring, of the Legislative Assembly of the Territory of Montana, that we tender our profound regard and esteem to his Excellency, Andrew Johnson, President of the United States, in his endeavors to wed and bring together the estranged localities of the American Republic, to become united once more in the fraternal bonds of political brotherhood, as freemen of a constitutional union, and so long as he pursues the same direction, and leads on in the beaten path of Democratic Principles, founded on reciprocal rights and duties, we will, come weal or woe, stand by him, invoking the memory of our fathers and the recognition and aid of the supreme Ruler of the Universe.

Concurred in, April 13, 1866.

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No. 12—Joint Resolution.

Resolved, by the Council, the House concurring, that a committee of three, one from the Council and two from the House, be appointed to revise the revenue laws of this territory, and to perfect, as near as possible, our revenue system, and that they be required to report the result of their investigations to their respective houses; also such bills as in their judgment will remedy the defects in said laws.

Concurred in, March 27, 1866.

No. 13—Joint Resolution.

Resolved, By the Council, the House concurring, that the Territorial Auditor be authorized and required to audit and pay to John J. Hull, late Territorial Treasurer, the sum of five hundred dollars, for office rent, fuel and lights, for the use of Territorial Treasurer, from June 1864, to March, 1866.

Concurred in, April 13th, 1866.

Approved, April 13th, 1866.

No. 14—Joint Resolution.

Resolved, by the Council, the House concurring, that the Hon. L. Lawrence be allowed the per diem allowed to a member of the Council, from the commencement of the present session of the Legislature, until the day on which his case was decided, as contestant to the seat of the Hon. James G. Spratt, now member of the Council from Madison County, and that the President of the Council shall certify to said time, and the Secretary of the Territory be requested, on presentation of such certificate, to pay the per diem compensation, as in case of members of the Council, and that the Auditor of the Territory be authorized and instructed to pay the extra compensation per diem, according to said certificate, as in other cases.

Concurred in, March 31, 1866.

No. 15—Joint Resolution.

Resolved, By the House of Representatives the Council concurring, that the county commissioners of the several counties be, and they are hereby empowered and instructed to examine into, and ascertain by evidence taken in writing the amount of revenue collected by the former county Treasurers of Madison, Edgerton, Deer Lodge, Gallatin, Jefferson and Beaver Head counties, and by them paid over to the former Territorial Treasurer; also, the amount justly due individuals on account of the Indian expedition set on foot by Governor Edgerton, in the year A. D. 1865; and, also, the amount unlawfully collected by certain United States officers, from the miners in he counties aforesaid, on account of a failure to pay a pretended license on placer mining claims, and that the proofs thus taken with their opinion thereon, be, by them transmitted to the next legislative assembly of this Territory.

Concurred in, April 10th, 1866.

No. 16—Joint Resolution

Resolved, By the House of Representatives, and the Council concurring, that the votes as returned to the Secretary's office of this Territory, from the counties of Missoula and Chouteau, are a fraud as appears upon the face of the said returns of the said counties, and that the same are hereby condemned, and that the perpetrators of the same are guilty of a violation of the law of the Territory, and therefore meet the just condemnation of all good citizens of the Territory.

Concurred in, April 13, 1866.

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No. 17—Joint Resolution.

Resolved, By the Council of the Legislative Assembly, the House concurring, that Andrew Leech, Wm. M. Stafford, John S. Rockfellow, and John H. Ming, be, and they are hereby empowered, and it shall be their duty to settle with the late Auditor of this Territory, John S. Lott, and John J. Hull, late Treasurer, as soon a possible, and report to the present Legislature if possible. If not to report at the next session of the Legislature, and in case the said commission, cannot agree with, and settle with the said Auditor, and Treasurer, as soon as such is ascertained, it shall be the duty of said Leech, Stafford, Rockfellow and Ming, thus empowered to inform the District Attorney of Madison county of their failure to settle with the said Auditor and Treasurer, when it shall be the duty of the said Attorney to proceed in an action at law, in the name of the people of the Territory of Montana, against said Auditor and Treasurer to prosecute the same to settlement.

Concurred in, April 9th, 1866.

No. 18—Joint Resolution.

[Indemnifying Andrew Leech and W. M. Stafford for services rendered the Territory of Montana.]

That *whereas* Andrew Leech and W. M. Stafford, Commissioners appointed by a joint resolution of the Legislative Assembly of the Territory of Montana, to examine the accounts of the late Territorial Auditor and Treasurer of said Territory, and report thereon to the Legislature, and,

Whereas, the said Leech and Stafford, in pursuance of said resolution, have performed said service to the entire satisfaction of the Legislature, and the people of the Territory at large, and were engaged in said work *four* days each:

Therefore be it resolved, By the Council the House Concurring, that the Auditor of the Territory be, and he is hereby, required to audit and pay to the said Leech and Stafford, each, the sum of eighty dollars, being at the rate of twenty dollars per day for said services.

Concurred in, April 7th, 1866.

No. 19—Joint Resolution.

Resolved, That having been assembled by Proclamation of Acting-Governor Meagher, in a Legislative capacity, as our present session approaches its termination, we do hereby tender to his Excellency our tribute of respect and esteem. Suddenly and unexpectedly upon his arrival in our Territory, called upon to assume the Executive control and administration of our affairs, we cheerfully concede that he has discharged his arduous and thankless duties with concientiousness and a view to public interest.

Resolved, That as our relations with him in an official capacity, are about to cease, we express to his Excellency, in these resolutions, our unfeigned pleasure and satisfaction in our acquaintance with him as a gentleman, and as the higehst officer of our Territory. The cordial and kindly feelings existing between the Executive and Legislative branches of the Territorial Government, we hope to have perpetuated in our personal relations when we have passed from our Legislative character to that of private citizens.

Concurred in, April 9, 1866.

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